MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 547
Author: Ma
Bill Date: January 7, 2008, amended
Subject: "Cap" on Fees
Sponsor: Medical Board of California

STATUS OF BILL:

This bill is currently in the Senate Business and Professions Committee and has not been set for hearing.

DESCRIPTION OF CURRENT LEGISLATION:

This bill includes language that will establish a "cap" or "ceiling" on the physician licensing fees instead of a fixed amount as in current law. The initial licensing fee will be fixed by the Board at no greater than seven hundred ninety dollars ($790). The biennial renewal fee will also be fixed at no greater than seven hundred ninety dollars ($790).

ANALYSIS:

This bill is a result of a fiscal audit by the Bureau of State Audits where it concluded that the Board had excess in its reserve fund and should pursue a reduction to the fee. In order to reduce the fee the Board would need legislation to allow for a fee set by regulation. The Board, in November 2007, authorized staff to seek legislation allowing for a "cap" on the current ($790) physician initial and renewal fees. Inserting the "fixed by the board" language into the law will allow the Board to set and revise the fee by regulatory action up to the "cap." In addition, the Board authorized staff to seek authority to have a fund reserve between two and six months instead of at approximately two months.

The author introduced the current bill without Board sponsorship.

Staff continues to work with the author's office on an amendment for the reserve fund and to clean up a technical issue allowing the fee to be equal to $790. These amendments have not been accepted by the author to date.

FISCAL: Minor and absorbable should the Board pursue regulatory authority to reduce the fee.

POSITION: Support if amended to provide flexibility in the fund's reserve and fix the technical issue.

April 18, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

AMENDED IN ASSEMBLY APRIL 19, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 547

Introduced by Assembly Member Ma

February 21, 2007

~~An act to add and repeal Section 12699.64 of the Insurance Code, relating to health care coverage.~~ *An act to amend Section 2435 of the Business and Professions Code, relating to medicine, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 547, as amended, Ma. ~~County Health Initiative Matching Fund: application assistance.~~ *Medical Board of California: licensure fees.*

Existing law~~, the County Health Initiative Matching Fund, establishes a fund that is managed by the Managed Risk Medical Insurance Board. Under existing law, a county, county agency, a local initiative, or a county organized health system, defined as applicants, may apply to the board for funding to provide comprehensive health insurance coverage to a person who meets specified income criteria~~ *creates the Medical Board of California to license and regulate physicians and surgeons. Licensees of the board are required to pay licensure fees, including an initial licensing fee of $790 and a biennial renewal fee of $790. Existing law authorizes the board to increase those fees in certain circumstances.*

This bill would ~~establish a pilot program to authorize, until December 31, 2008, the applicants, defined as the City and County of San Francisco and the local initiative with which it contracts to provide~~

~~comprehensive health care coverage, to pay a fee to a person or entity who assists another to apply for coverage or to renew his or her coverage with the applicant, as specified. The bill would prohibit the applicants from using federal financial participation revenue from the County Health Initiative Matching Fund to pay the fee and would authorize the applicants to adopt procedures regarding implementation of the fee award process~~ *require those fees to be fixed by the board at a maximum of $790, while retaining the authority of the board to raise those fees in certain circumstances.*

This bill, by January 1, 2012, would require the Bureau of State Audits to conduct a review of the board's financial status, including, but not limited to, a review of the board's revenue projections, and, on the basis of that review, to report to the Joint Legislative Audit Committee on any adjustment to fees required to maintain a 2-month reserve in the Contingent Fund of the Medical Board of California, a continuously appropriated fund, and also taking into account the projected number of new licensees of the board. The review would be funded from licensure fees in the fund, thereby making an appropriation.

Vote: majority. Appropriation: ~~no~~ *yes*. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2435 of the Business and Professions Code is amended to read:

2435. The following fees apply to the licensure of physicians and surgeons:

(a) Each applicant for a certificate based upon a national board diplomate certificate, each applicant for a certificate based on reciprocity, and each applicant for a certificate based upon written examination, shall pay a nonrefundable application and processing fee, as set forth in subdivision (b), at the time the application is filed.

(b) The application and processing fee shall be fixed by the ~~Division of Licensing~~ *board* by May 1 of each year, to become effective on July 1 of that year. The fee shall be fixed at an amount necessary to recover the actual costs of the licensing program as projected for the fiscal year commencing on the date the fees become effective.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee, if any, *which fee shall be fixed by the board consistent with this section.* The initial license fee shall be *up to* seven hundred ninety dollars ($790). An applicant enrolled in an approved postgraduate training program shall be required to pay only 50 percent of the initial license fee.

(d) The biennial renewal fee shall be *fixed by the board consistent with this section. The biennial renewal fee shall be up to* seven hundred ninety dollars ($790).

(e) Notwithstanding subdivisions (c) and (d) and to ensure that subdivision (k) of Section 125.3 is revenue neutral with regard to the board, the board may, by regulation, increase the amount of the initial license fee and the biennial renewal fee by an amount required to recover both of the following:

(1) The average amount received by the board during the three fiscal years immediately preceding July 1, 2006, as reimbursement for the reasonable costs of investigation and enforcement proceedings pursuant to Section 125.3.

(2) Any increase in the amount of investigation and enforcement costs incurred by the board after January 1, 2006, that exceeds the average costs expended for investigation and enforcement costs during the three fiscal years immediately preceding July 1, 2006. When calculating the amount of costs for services for which the board paid an hourly rate, the board shall use the average number of hours for which the board paid for those costs over these prior three fiscal years, multiplied by the hourly rate paid by the board for those costs as of July 1, 2005. Beginning January 1, 2009, the board shall instead use the average number of hours for which it paid for those costs over the three-year period of fiscal years 2005–06, 2006–07, and 2007–08, multiplied by the hourly rate paid by the board for those costs as of July 1, 2005. In calculating the increase in the amount of investigation and enforcement costs, the board shall include only those costs for which it was eligible to obtain reimbursement under Section 125.3 and shall not include probation monitoring costs and disciplinary costs, including those associated with the citation and fine process and those required to implement subdivision (b) of Section 12529 of the Government Code.

(f) Notwithstanding Section 163.5, the delinquency fee shall be 10 percent of the biennial renewal fee.

(g) The duplicate certificate and endorsement fees shall each be fifty dollars ($50), and the certification and letter of good standing fees shall each be ten dollars ($10).

(h) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Contingent Fund of the Medical Board of California equal to approximately two months' operating expenditures.

(i) ~~Not later than July 1, 2007, the Bureau of State Audits (BSA) shall conduct a review of the board's financial status, its financial projections and historical projections, including, but not limited to, its projections related to expenses, revenues, and reserves. The BSA shall, on the basis of the review, report to the Joint Legislative Audit Committee before January 1, 2008, on any adjustment to the amount of the licensure fee that is required to maintain the reserve amount in the Contingent Fund of the Medical Board of California pursuant to subdivision (h) of Section 2435, and whether a refund of any excess revenue should be made to licentiates.~~ *Not later than January 1, 2012, the Bureau of State Audits (BSA) shall conduct a review of the board's financial status, including, but not limited to, a review of the board's revenue projections. The BSA shall, on the basis of the review, report to the Joint Legislative Audit Committee on any adjustment to the fees imposed by this section required to maintain the reserve in the Contingent Fund of the Medical Board of California as provided by subdivision (h), and also taking into account the projected number of new licensees of the board. The review shall be funded from licensure fees in the fund.*

~~SECTION 1. Section 12699.64 is added to the Insurance Code, to read:~~

~~12699.64. (a) An applicant may, but is not required to, pay an application assistance fee to a person or entity if the following conditions are met:~~

~~(1) The person or entity assists an individual to complete an application to enroll in the comprehensive health insurance coverage provided by the applicant or to renew that coverage with the applicant.~~

~~(2) The individual enrolls or renews his or her coverage with the applicant as a result of the application assistance. Placement~~

~~of an individual on a waiting list shall not constitute enrollment or renewal for purposes of payment of an application assistance fee.~~

~~(b) The applicant shall not use any federal financial participation revenue from the fund to pay an application assistance fee.~~

~~(c) The applicant may establish procedures for the implementation of the fee award described in subdivision (a), including establishing a list of persons or entities or categories of persons or entities who are eligible for the fee, the amount of the fee, and other rules to ensure the integrity of the fee award process.~~

~~(d) "Applicant," for purposes of this section, means the City and County of San Francisco and the local initiative that contracts with the City and County of San Francisco to provide comprehensive health care coverage, as described in Section 12699.53.~~

~~(e) This section constitutes a pilot program that shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.~~

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 1154
Author: Leno
Bill Date: January 24, 2008, amended
Subject: Diabetes Task Force and Pilot Program
Sponsor: Author

STATUS OF BILL:

This bill is currently in the Senate Health Committee and has not been set for hearing.

DESCRIPTION OF CURRENT LEGISLATION:

The bill as introduced contained intent language by which the State would create a program which gives free diabetes medicine/supplies to government employees who have diabetes if they volunteer counseling with their pharmacists.

As amended, this bill would require the Department of Health Services, in consultation with the California Health Alliance Commission, to develop a diabetes risk reduction pilot program within 24 counties to analyze and report the outcomes from integrative care to the causes of diabetes through proactive prevention.

This bill was amended to require the Department of Public Health to consult with the Task Force on Obesity and Diabetes Causes, which is created by the bill, on the diabetes risk reduction program within the minimum number of counties necessary to represent the demographic populations in the state to review, analyze, and report on the outcomes from integrative care of diabetes through proactive prevention.

ANALYSIS:

This bill as introduced declares the intent of the legislature to create a statewide pilot program which gives free diabetes medicine and supplies to state, county, and municipal employees who have diabetes. Free medicine and supplies are provided only if the program participants volunteer to undergo monthly counseling with specially trained pharmacists. The author's office has indicated that this program will be modeled after a similar program in North Carolina which has proven to be successful. However, staff has indicated that they are working on extensive amendments which will fully delineate the parameters of the program. The bill will not move until amendments are made.

The amendments to this bill would require the Department of Health Services (DHS) in consultation with the California Health Alliance Commission to develop a diabetes risk reduction pilot program. This bill fully describes the pilot program.

This program would use information technology and media to facilitate and reinforce messages of the benefits of more nutritious whole foods, along with good hydration and physical activity. The communities selected to enroll in the pilot program would be provided with dedicated health professionals and support personnel by the DHS to implement the pilot program, as recommended by the commission's Diabetes Risk Reduction Update. This pilot program is to analyze and report the outcomes of integrated care through proactive prevention.

Amendments to the bill create the Task Force on Obesity and Diabetes Causes and require the Department of Public Health to consult with the task force on a diabetes risk reduction pilot program. The pilot would be implemented in a minimum number of counties necessary to represent the demographic populations in the state in order to review, analyze, and report on the outcomes from integrative care of diabetes through proactive prevention.

Since the Governors health care reform proposal did not move forward, this bill provides another option to pursue a best practices model for diabetes care prevention.

FISCAL: None

POSITION: Support

April 15, 2008

AMENDED IN ASSEMBLY JANUARY 24, 2008

AMENDED IN ASSEMBLY JANUARY 17, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 1154

Introduced by Assembly Member Leno

February 23, 2007

An act to add and repeal Section 131086 of the Health and Safety Code, relating to diabetes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1154, as amended, Leno. Diabetes.

Existing law authorizes the State Department of Public Health to perform studies, demonstrate innovative methods, and disseminate information relating to the protection, preservation, and advancement of public health.

This bill would require the department, in consultation with the Task Force on Obesity and Diabetes Causes, which is created by the bill, to develop and administer a diabetes risk reduction pilot program within the minimum number of counties necessary to represent the demographic populations in the state to review, analyze, and report on the outcomes from integrative care of diabetes through proactive prevention. The bill would establish the Diabetes Prevention and Treatment Pilot Program Fund in the State Treasury, and would require the department to deposit any moneys received from the federal government or from private donations into the fund to be used, upon appropriation by the

Legislature, for the pilot program. The bill would provide that it shall only become operative if adequate funds, as determined by the department, are appropriated from the fund in the annual Budget Act for the pilot program. The bill would provide that its provisions shall become inoperative on July 1 following the 4th fiscal year after the first appropriation is made for purposes of the bill and are repealed on the January 1 following that date.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Clear and substantial evidence indicates that a combination of better food and hydration, with prudent activity and a healthy attitude, promotes health and reduces the risk of chronic diseases, particularly diabetes. The benefits of this combination range from restorative sleep to enhanced hormone and neurochemical balance. All of these contribute to, and are synergistic in achieving, a healthy balance of sugar and energy in the body. As a result, effective habit modification is able to reduce the risk of diabetes, particularly in at-risk participants.

(b) Recent research confirms a rapid and accelerating increase in diabetes, particularly in California's children. The human and financial costs are staggering and avoidable. Access to healthier choices and resources facilitates the practice of healthy habits.

(c) Diabetes and its antecedents and consequences drain precious resources from the state.

(d) Diabetes negatively impacts productivity and quality of life, while increasing substantially the risk of complications ranging from heart attacks to kidney failure, stroke to blindness, and fragile blood vessels to amputation. The promotion of healthy habits that is reinforced with information and documentation of perceived and tangible benefits is more effective than communicating a general message of prevention while largely focusing on early disease detection and communicating the principles of prevention in the abstract rather than actionable terms.

(e) Proactive prevention in diabetes risk mitigation is a public health concept that supports community health promotion habits

and practices that show evidence-based efficacy in at-risk populations. Proactive prevention programs include incentives for more whole foods, fruits, vegetables, pulses, nuts, seeds, and herbs along with adequate water, regular physical activity, and expression or receipt of appreciation and for the help we can be to ourselves and those in need. All this contributes to better weight maintenance by eating a balanced variety of nourishing foods and drinking adequate amounts of water and herbal teas, choosing moments in which to appreciate what we have, and enjoying the kind of regular activity appropriate to our functional age and abilities.

(f) A primary strategy of proactive prevention is to increase access to health enhancing practices, resources, and choices. Reinforcement of healthier choices and reduction of barriers coupled with incentives for use are components of this approach. Incentives for health promoting actions are both financial and emotional.

(g) Existing law requires the State Department of Health Services to promote the public health and welfare.

(h) It is the intent of the Legislature that the program established pursuant to this act will document the program outcomes in rigorous tests and formal statistical measures, as well as by consumer quality of life outcome surveys performed by the California Health Alliance.

(i) It is the intent of the Legislature that the program established pursuant to this act will document the benefits of proactive prevention in diabetes risk mitigation at its cause.

(j) It is also the intent of the Legislature for the pilot program established pursuant to this act to improve the health and well-being of at-risk Californians by addressing the causes of diabetes and monitoring the benefits people enjoy through the application of proactive prevention.

SEC. 2. Section 131086 is added to the Health and Safety Code, to read:

131086. (a) As used in this section:

(1) "At-risk" refers to persons at risk for prediabetes or type II diabetes, as defined by accepted clinical standards.

~~(1)~~

(2) "Department" means the State Department of Public Health.

(3) "Diabetes" means type II diabetes, as defined by accepted clinical standards.

~~(2)~~

(4) "Director" means the state public health officer.

~~(3)~~

(5) "Task force" means the Task Force on Obesity and Diabetes Causes.

(b) There hereby established in the department the Task Force on Obesity and Diabetes Causes, which shall be comprised of the following members:

(1) A representative of the Californians Health Alliance.

(2) A representative of the American Society of Integrative Medical Practice.

(3) A representative of Health Studies Collegium.

(4) A representative of a community foundation.

(5) Three ex officio members, one of which shall be appointed by the Governor, one of which shall be appointed by the President pro Tempore of the Senate, and one of which shall be appointed by the Speaker of the Assembly.

(c) The department shall, in consultation with the task force, develop and administer a diabetes risk reduction pilot program within the minimum number of counties necessary to represent the demographic populations of California to review, analyze, and report on the outcomes from integrative care of diabetes through proactive prevention.

(d) The department, in consultation with the task force, shall design the pilot program to include all of the following components:

(1) Strategies aimed at diabetes risk reduction that are directed at low-income, at-risk communities and populations. In communities invited to participate in the pilot program, the pilot program shall provide dedicated health professionals and support personnel to implement this pilot program as recommended by the task force's Diabetes Risk Reduction Update.

(2) The department shall provide technical and logistical support as needed and predicated upon funding of the public-private partnership responsible for this pilot program. Nothing in the pilot program shall be in conflict with the federal Diabetes Prevention Guidelines of the Centers for Disease Control and Prevention (CDC). This proactive prevention pilot program shall document the risk and harm reduction as well as the outcomes of this community-based public health initiative.

(3) Strategies aimed at providing incentives for food stamp recipients to promote their health and reduce health risk behaviors shall be a priority of this program. Increasing access, reinforcing the benefits, and documenting the results of those strategies as implemented under the pilot program shall also be included, the department shall report quarterly to the task force no later than 30 days after the close of each quarter on the effectiveness of the pilot program.

(4) The department shall seek any necessary federal government approval to allow the use of food stamp electronic benefits cards, as provided in Chapter 3 (commencing with Section 10065) of Part 1 of Division 9 of the Welfare and Institutions Code, to provide those incentives, and to implement this pilot program as an essential priority for the 2009–10 fiscal year.

(e) In developing the pilot program, the department shall consider all of the following:

(1) Counties that have above the food stamp average county participation.

(2) Counties that have below the food stamp average county participation.

(3) Counties with above-average rates of diabetes.

(4) Counties with above-average rates of obesity.

(5) Counties with above-average rates of cardiovascular diseases.

(6) Counties with the highest percentage of Native American population.

(7) Counties with the highest percentage of African American population.

(8) Counties with the highest percentage of Hispanic population.

(9) Counties with the highest percentage of Asian Pacific Islander population.

(10) Urban counties.

(11) Rural counties.

(f) In developing the pilot program, the department shall consider the efforts of other federal, state, private, and clinical diabetes programs, such as those of the federal Centers for Disease Control and Prevention's National Center for Chronic Disease Prevention and Health Promotion, the California Diabetes Project, and Champions for Change: Network for a Healthy California.

~~(f)~~

(g) The department shall consider the availability of appropriate technology in targeted counties and communities to implement the program and collect the data necessary to evaluate the pilot program.

~~(g)~~

(h) The department shall develop a process for evaluating the effectiveness of the pilot program. The evaluation shall examine the impact of the various strategies employed in the pilot program regarding the use of healthier choices, particularly those aimed at diabetes risk reduction. The evaluation shall also consider options that are appropriate to each community and implement those options with the highest likely benefit for that community. The department shall also conduct and perform real time data collection and prompt data analysis of outcomes. The department shall, at the earliest feasible time, make recommendations to the Legislature regarding the continuation of the pilot program, and shall include a statement of any federal policy changes needed to support the goals of the pilot program.

~~(h)~~

(i) The Diabetes Prevention and Treatment Pilot Program Fund is hereby created in the State Treasury. The department shall deposit any moneys received from the federal government or from private donations, and, notwithstanding Section 16305.7 of the Government Code, any interest earned on moneys in the fund, into the fund to be used, upon appropriation by the Legislature, for the pilot program. *No other state funds shall be used to fund the pilot program created pursuant to this section.*

~~(i)~~

(j) This section shall only be implemented if adequate implementation funds, as determined by the department, are appropriated from the Diabetes Prevention and Treatment Pilot Program Fund in the annual Budget Act or other statute. ~~No other state funds shall be used to fund the pilot program created pursuant to this section.~~

~~(j)~~

(k) This section shall become inoperative on July 1, following the fourth fiscal year after the first appropriation is made for purposes of this section in the annual Budget Act or other statute, and, as of the following January 1, is repealed, unless a later enacted statute, that is enacted before the date on which this section

is repealed, deletes or extends the dates on which it becomes inoperative and is repealed.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 1944
Author: Swanson
Bill Date: April 9, 2008, amended
Subject: Authorizing District Hospitals to Employ Physicians
Sponsor: Association of California Healthcare Districts

STATUS OF BILL:

This bill is currently in the Assembly Health Committee and is set for hearing on April 22, 2008.

DESCRIPTION OF CURRENT LEGISLATION:

This bill eliminates a current pilot program which allows for the limited direct employment of physicians by district hospitals, and instead, this bill allows for any health care district to employ the physicians directly, to work at any district facility or clinic.

ANALYSIS:

Current law (commonly referred to as the "Corporate Practice of Medicine" - B&P Code section 2400) generally prohibits corporations or other entities that are not controlled by physicians from practicing medicine, to ensure that lay persons are not controlling or influencing the professional judgment and practice of medicine by physicians.

The Board presently administers a pilot project to provide for the direct employment of physicians by qualified district hospitals; this project is set to expire on January 1, 2011. (Senate Bill 376/Chesbro, Chap. 411, Statutes of 2003). The Board supported SB 376 because the program was created as a limited pilot program, with a final evaluation to assess whether this exemption will promote access to health care.

SB 376 was sponsored by the Association of California Healthcare Districts to enable qualified district hospitals to recruit, hire and employ physicians as full-time paid staff in a rural or underserved community meeting the criteria contained in the bill. Support for this bill was premised upon the belief that the employment of physicians could improve the ability of district hospitals to attract the physicians required to meet the needs of those communities and also help to ensure the continued survival of healthcare district hospitals in rural and underserved communities, without any cost to the state.

Although it was anticipated that this pilot program would bring about significant improvement in access to healthcare in these areas, only five hospitals throughout all of California have participated, employing a total of six physicians. The last date for

physicians to enter into or renew a written employment contract with the qualified district hospital was December 31, 2006, and for a term not in excess of four years.

Current law requires the Board to evaluate the program and to issue a report to the Legislature no later than October 1, 2008. In March, 2008, staff sent letters to the six physicians and five hospital administrators participating in the program, asking each to define the successes, problems, if any, and overall effectiveness of this program for the hospital and on consumer protection. Additional input was sought as to how the program could be strengthened, and the participating physicians were asked to share thoughts on how the program impacted them personally. Responses have been requested by April 15, 2008, and the report will be prepared during this summer. In addition, staff will attempt to contact eligible hospitals that did not participate in order to evaluate other program improvements.

Until the evaluation of the current program was completed, the pilot provided safeguards and limitations. The program provides for the direct employment of no more than 20 physicians in California by qualified district hospitals at any time and limits the total number of physicians employed by such a hospital to no more than two at a time. The Medical Board is notified of any physicians hired under the pilot, and the contracts were limited to four years of service.

This bill eliminates the pilot program and instead would allow *carte blanche* to any heath care district to employ physicians at any facility or clinic which it operates. There are no limitations as to which hospitals could participate, as are provided in the current pilot program: 1) the hospital must be located in smaller counties (a population of less than 750,000); 2) the hospital must provide a majority of care to underserved populations; 3) the hospital must notify the Medical Board. Also, while the purpose of the original pilot program was to recruit physicians and surgeons to provide medically necessary services in rural and medically underserved communities, no such intent is made by this bill.

Until the success of the program has been evaluated, this bill seems premature with an unwarranted expansion. Further, although under current law and under this bill the participating hospital is prohibited from interfering with, controlling, or otherwise directing the physician's professional judgment, it is still of concern that there would be an unlimited number of physicians in California who could be employed.

FISCAL: Unable to determine.

POSITION: Recommendation: Oppose. A full evaluation of the pilot program should be completed before such a broad variance to the prohibition against the corporate practice of medicine is allowed.

April 18, 2008

AMENDED IN ASSEMBLY APRIL 9, 2008

AMENDED IN ASSEMBLY MARCH 13, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 1944

Introduced by Assembly Member Swanson
(Coauthors: Assembly Members Dymally, Laird, and Portantino)

February 13, 2008

An act to amend Section 2401 of, and to repeal Section 2401.1 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1944, as amended, Swanson. ~~Healing arts.~~ *Physicians and surgeons: health care districts.*

Existing law, the Medical Practice Act, restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specified exemptions. Existing law establishes until January 1, 2011, a pilot project to allow qualified district hospitals, as defined, to employ a physician and surgeon, if the hospital does not interfere with, control, or otherwise direct the professional judgment of the physician and surgeon. The pilot project authorizes the direct employment of a total of 20 physicians and surgeons by those hospitals and specifies that each qualified district hospital may employ up to 2 physicians and surgeons, subject to specified requirements.

This bill would delete the pilot project and would instead authorize a health care district, as defined, to employ a physician and surgeon if specified requirements are met and the district does not interfere with,

control, or otherwise direct the professional judgment of the physician and surgeon.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2401 of the Business and Professions Code is amended to read:

2401. (a) Notwithstanding Section 2400, a clinic operated primarily for the purpose of medical education by a public or private nonprofit university medical school, which is approved by the Division of Licensing or the Osteopathic Medical Board of California, may charge for professional services rendered to teaching patients by licensees who hold academic appointments on the faculty of the university, if the charges are approved by the physician and surgeon in whose name the charges are made.

(b) Notwithstanding Section 2400, a clinic operated under subdivision (p) of Section 1206 of the Health and Safety Code may employ licensees and charge for professional services rendered by those licensees. However, the clinic shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.

(c) Notwithstanding Section 2400, a narcotic treatment program operated under Section 11876 of the Health and Safety Code and regulated by the State Department of Alcohol and Drug Programs, may employ licensees and charge for professional services rendered by those licensees. However, the narcotic treatment program shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.

(d) Notwithstanding Section 2400, a health care district operated pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code may employ a physician and surgeon~~;~~ and may charge for professional services rendered by the physician and surgeon, if the physician and surgeon in whose name the charges are made approves the charges. However, the district shall not interfere with, control, or otherwise direct the physician and

surgeon's professional judgment in a manner prohibited by Section 2400 or any other provision of law.

SEC. 2. Section 2401.1 of the Business and Professions Code is repealed.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 1951
Author: Hayashi
Bill Date: April 8, 2008, amended
Subject: Psychiatrists: suicide prevention training
Sponsor: Author

STATUS OF BILL:

This bill is currently on the Assembly Floor.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would require an applicant for licensure as a physician who is intending to specialize in psychiatry who begins medical school on or after January 1, 2010, to complete six hours of coursework in suicide prevention, assessment, intervention, and post intervention strategies. This bill will require physicians specializing in psychiatry who began medical school prior to January 1, 2010 to complete coursework as a condition of renewal.

ANALYSIS:

This bill requires medical students, who begin medical education after January 10, 2010 to meet requirements of six hours of specialized training. This training can be obtained from a variety of sources, some of whom are not currently approved as providers. This will require the Board to review and approve these providers for this specialized training.

This bill, in addition to requiring applicants for licensure as a physician, requires, commencing January 1, 2011, all licensed physicians specializing in psychiatry, who began medical school prior to January 1, 2010, to complete six hours of coursework as a condition of license renewal.

The bill states that the six hours of credit can be obtained from a variety of continuing education providers that are not approved by the Medical Board (Board). These providers are the same who would provide training to initial applicants.

There are several other technical issues with the language in this bill that need to be clarified. The bill allows for an exemption from the requirement. This bill creates workload in evaluating requests for exemptions and in the approval of prior training.

FISCAL: May require one staff person to work on the development of the approval process and to carry out on going workload for the Board.

POSITION: Recommendation: Oppose unless amended to allow the Board to use courses approved by physician continuing education providers or those approved by other Boards.

April 18, 2008

AMENDED IN ASSEMBLY APRIL 8, 2008

AMENDED IN ASSEMBLY MARCH 11, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 1951

Introduced by Assembly Member Hayashi
(Coauthor: Assembly Member Dymally)

February 13, 2008

An act to add Sections *2089.8, 2190.6,* 2915.8, 2915.9, 4980.415, 4980.416, 4989.23, 4989.35, 4996.27, and 4996.275 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1951, as amended, Hayashi. Mental health professionals: suicide prevention training.

Existing law provides for the licensure and regulation of various professionals who provide mental health-related services, including psychologists, marriage and family therapists, educational psychologists, and clinical social workers. Under existing law, an applicant for licensure in these professions is required to complete certain coursework or training in order to be eligible for a license. Existing law also requires these professionals to participate in continuing education as a prerequisite for renewing their license.

This bill would require ~~that~~ an applicant for licensure as a psychologist, marriage and family therapist, educational psychologist, or clinical social worker~~, or for renewal of one of those licenses,~~ *who begins graduate school on or after January 1, 2010, to* complete 6 hours of training in suicide prevention, assessment, intervention, and postintervention strategies, as specified. *Commencing January 1, 2011,*

the bill would require a licensed psychologist, marriage and family therapist, educational psychologist, or clinical social worker who began graduate school prior to January 1,2010, to complete that coursework as a condition of license renewal.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires an applicant for that license to complete a medical curriculum providing instruction in specified subjects. Under existing law, the board is required to adopt and administer standards for the continuing education of licensed physicians and surgeons.

This bill would require an applicant for licensure as a physician and surgeon intending to specialize in psychiatry who begins medical school on or after January 1, 2010, to complete 6 hours of coursework in suicide prevention, assessment, intervention, and postintervention strategies, as specified. Commencing January 1, 2011, the bill would require a licensed physician and surgeon specializing in psychiatry who began medical school prior to January 1, 2010, to complete that coursework as a condition of license renewal.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2089.8 is added to the Business and Professions Code, to read:

2089.8. (a) An applicant for licensure as a physician and surgeon intending to specialize in psychiatry who began medical school on or after January 1, 2010, shall complete, as a condition of licensure, a minimum of six hours of coursework in suicide prevention, assessment, intervention, and postintervention strategies. This coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

(b) The coursework required by this section shall be obtained from one of the following:

(1) An approved medical school, as provided in Section 2084.

(2) A continuing education provider approved by the board.

(3) A course sponsored or offered by a professional association and approved by the board.

(4) A course sponsored or offered by a local, county, or state department of health or mental health and approved by the board.

(5) A course offered by a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.

(c) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the board, fulfill the requirements of this section.

(d) An applicant shall submit to the board evidence acceptable to the board of the applicant's satisfactory completion of the coursework required by subdivision (a).

(e) An applicant may request an exemption from this section if he or she intends to practice in an area where the training required by this section would not be needed.

(f) The board shall not issue a license to the applicant until the applicant has met the requirements of this section.

SEC. 2. Section 2190.6 is added to the Business and Professions Code, to read:

2190.6. (a) A physician and surgeon specializing in psychiatry who began medical school prior to January 1, 2010, shall complete a minimum of six hours of continuing education coursework in suicide prevention, assessment, intervention, and postintervention strategies during his or her first renewal period after the operative date of this section. The coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

(b) The coursework required by this section shall be obtained from one of the following:

(1) An approved medical school, as provided in Section 2084.

(2) A continuing education provider approved by the board.

(3) A course sponsored or offered by a professional association and approved by the board.

(4) A course sponsored or offered by a local, county, or state department of health or mental health and approved by the board.

(5) A course offered by a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education

provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.

(c) A licensee shall submit to the board evidence acceptable to the board of the licensee's satisfactory completion of the coursework required by subdivision (a).

(d) A person seeking to meet the requirements of this section may submit to the board a certificate evidencing completion of equivalent coursework in suicide prevention, assessment, intervention, and postintervention strategies taken prior to the operative date of this section, or proof of equivalent teaching or practice experience. The board, in its discretion, may accept that certification as meeting the requirements of this section.

(e) A licensee may request an exemption from this section if he or she practices in an area where the training required by this section is not needed.

(f) The board may not renew an applicant's license until the applicant has met the requirements of this section.

(g) Continuing education courses taken pursuant to this section shall be applied to the required minimum number of continuing education hours established by regulation.

(h) This section shall become operative on January 1, 2011.

~~SECTION 1.~~

SEC. 3. Section 2915.8 is added to the Business and Professions Code, to read:

2915.8. (a) An applicant for licensure as a psychologist who began graduate study on or after January 1, 2010, shall complete, as a condition of licensure, a minimum of six hours of coursework in suicide prevention, assessment, intervention, and postintervention strategies. This coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

(b) ~~Coursework~~ *The coursework* required by this section shall be obtained from one of the following sources:

(1) An accredited or approved educational institution, as defined in Section 2902.

(2) A continuing education provider approved by the board.

(3) A course sponsored or offered by a professional association and approved by the board.

(4) A course sponsored or offered by a local, county, or state department of health or mental health and approved by the board.

(5) A course offered by a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.

(c) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the board, fulfill the requirements of this section.

(d) An applicant shall submit to the board evidence acceptable to the board of the applicant's satisfactory completion of the coursework required by subdivision (a).

(e) An applicant may request an exemption from this section if he or she intends to practice in an area where the training required by this section would not be needed.

(f) The board shall not issue a license to the applicant until the applicant has met the requirements of this section.

~~SEC. 2.~~

SEC. 4. Section 2915.9 is added to the Business and Professions Code, to read:

2915.9. (a) A licensee who began graduate study prior to January 1, 2010, shall complete a minimum of six hours of continuing education coursework in suicide prevention, assessment, intervention, and postintervention strategies during his or her first renewal period after the operative date of this section. The coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

(b) The coursework required by this section shall be obtained from one of the following:

(1) An accredited or approved educational institution, as defined in Section 2902.

(2) A continuing education provider approved by the board.

(3) A course sponsored or offered by a professional association and approved by the board.

(4) A course sponsored or offered by a local, county, or state department of health or mental health and approved by the board.

(5) A course offered by a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education

provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.

(c) A licensee shall submit to the board evidence acceptable to the board of the licensee's satisfactory completion of the coursework required by subdivision (a).

(d) A person seeking to meet the requirements of this section may submit to the board a certificate evidencing completion of equivalent coursework in suicide prevention, assessment, intervention, and postintervention strategies taken prior to the operative date of this section, or proof of equivalent teaching or practice experience. The board, in its discretion, may accept that certification as meeting the requirements of this section.

(e) A licensee may request an exemption from this section if he or she practices in an area where the training required by this section is not needed.

(f) The board may not renew an applicant's license until the applicant has met the requirements of this section.

(g) Continuing education courses taken pursuant to this section shall be applied to the 36 hours of approved continuing education required in Section 2915.

(h) This section shall become operative on January 1, 2011.

~~SEC. 3.~~

SEC. 5. Section 4980.415 is added to the Business and Professions Code, to read:

4980.415. (a) An applicant for licensure as a marriage and family therapist who began graduate study on or after January 1, 2010, shall complete, as a condition of licensure, a minimum of six hours of coursework in suicide prevention, assessment, intervention, and postintervention strategies. This coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

(b) ~~Coursework~~ *The coursework* required by this section shall be obtained from one of the following sources:

(1) An accredited or approved educational institution, as specified in Section 4980.40.

(2) A continuing education provider approved by the board.

(3) A course sponsored or offered by a professional association and approved by the board.

(4) A course sponsored or offered by a local, county, or state department of health or mental health and approved by the board.

(5) A course offered by a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.

(c) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the board, fulfill the requirements of this section.

(d) An applicant shall submit to the board evidence acceptable to the board of the applicant's satisfactory completion of the coursework required by subdivision (a).

(e) An applicant may request an exemption from this section if he or she intends to practice in an area where the training required by this section would not be needed.

(f) The board shall not issue a license to the applicant until the applicant has met the requirements of this section.

~~SEC. 4.~~

SEC. 6. Section 4980.416 is added to the Business and Professions Code, to read:

4980.416. (a) A licensee who began graduate study prior to January 1, 2010, shall complete a minimum of six hours of continuing education coursework in suicide prevention, assessment, intervention, and postintervention strategies during his or her first renewal period after the operative date of this section. The coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

(b) The coursework required by this section shall be obtained from one of the following:

(1) An accredited or approved educational institution, as specified in Section 4980.40.

(2) A continuing education provider approved by the board.

(3) A course sponsored or offered by a professional association and approved by the board.

(4) A course sponsored or offered by a local, county, or state department of health or mental health and approved by the board.

(5) A course offered by a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education

provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.

(c) A licensee shall submit to the board evidence acceptable to the board of the licensee's satisfactory completion of the coursework required by subdivision (a).

(d) A person seeking to meet the requirements of this section may submit to the board a certificate evidencing completion of equivalent coursework in suicide prevention, assessment, intervention, and postintervention strategies taken prior to the operative date of this section, or proof of equivalent teaching or practice experience. The board, in its discretion, may accept that certification as meeting the requirements of this section.

(e) A licensee may request an exemption from this section if he or she practices in an area where the training required by this section is not needed.

(f) The board may not renew an applicant's license until the applicant has met the requirements of this section.

(g) Continuing education courses taken pursuant to this section shall be applied to the 36 hours of approved continuing education required in Section 4980.54.

(h) This section shall become operative on January 1, 2011.

~~SEC. 5.~~

SEC. 7. Section 4989.23 is added to the Business and Professions Code, to read:

4989.23. (a) An applicant for licensure as an educational psychologist who began graduate study on or after January 1, 2010, shall complete, as a condition of licensure, a minimum of six hours of coursework in suicide prevention, assessment, intervention, and postintervention strategies. This coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

(b) ~~Coursework~~ *The coursework* required by this section shall be obtained from one of the following sources:

(1) An educational institution approved by the board, as provided in paragraph (1) of subdivision (a) of Section 4989.20.

(2) A continuing education provider approved by the board.

(3) A course sponsored or offered by a professional association and approved by the board.

(4) A course sponsored or offered by a local, county, or state department of health or mental health and approved by the board.

(5) A course offered by a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.

(c) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the board, fulfill the requirements of this section.

(d) An applicant shall submit to the board evidence acceptable to the board of the applicant's satisfactory completion of the coursework required by subdivision (a).

(e) An applicant may request an exemption from this section if he or she intends to practice in an area where the training required by this section would not be needed.

(f) The board shall not issue a license to an applicant until the applicant has met the requirements of this section.

~~SEC. 6.~~

SEC. 8. Section 4989.35 is added to the Business and Professions Code, to read:

4989.35. (a) A licensee who began graduate study prior to January 1, 2010, shall complete a minimum of six hours of continuing education coursework in suicide prevention, assessment, intervention, and postintervention strategies during his or her first renewal period after the operative date of this section. The coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

(b) The coursework required by this section shall be obtained from one of the following:

(1) An educational institution approved by the board, as provided in paragraph (1) of subdivision (a) of Section 4989.20.

(2) A continuing education provider approved by the board.

(3) A course sponsored or offered by a professional association and approved by the board.

(4) A course sponsored or offered by a local, county, or state department of health or mental health and approved by the board.

(5) A course offered by a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education

provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.

(c) A licensee shall submit to the board evidence acceptable to the board of the ~~person's~~ *licensee's* satisfactory completion of the coursework required by subdivision (a).

(d) A person seeking to meet the requirements of this section may submit to the board a certificate evidencing completion of equivalent coursework in suicide prevention, assessment, intervention, and postintervention strategies taken prior to the operative date of this section, or proof of equivalent teaching or practice experience. The board, in its discretion, may accept that certification as meeting the requirements of this section.

(e) A licensee may request an exemption from this section if he or she practices in an area where the training required by this section is not needed.

(f) The board may not renew an applicant's license until the applicant has met the requirements of this section.

(g) Continuing education courses taken pursuant to this section shall be applied to the 36 hours of approved continuing education required in Section 4989.34.

(h) This section shall become operative on January 1, 2011.

~~SEC. 7.~~

SEC. 9. Section 4996.27 is added to the Business and Professions Code, to read:

4996.27. (a) An applicant for licensure as a licensed clinical social worker who began graduate study on or after January 1, 2010, shall complete, as a condition of licensure, a minimum of six hours of coursework in suicide prevention, assessment, intervention, and postintervention strategies. This coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

(b) ~~Coursework~~ *The coursework* required by this section shall be obtained from one of the following sources:

(1) An accredited or approved educational institution, as specified in Section 4996.18.

(2) A continuing education provider approved by the board.

(3) A course sponsored or offered by a professional association and approved by the board.

(4) A course sponsored or offered by a local, county, or state department of health or mental health and approved by the board.

(5) A course offered by a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.

(c) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the board, fulfill the requirements of this section.

(d) An applicant shall submit to the board evidence acceptable to the board of the ~~person's~~ *applicant's* satisfactory completion of the coursework required by subdivision (a).

(e) An applicant may request an exemption from this section if he or she intends to practice in an area where the training required by this section would not be needed.

(f) The board shall not issue a license to an applicant until the applicant has met the requirements of this section.

~~SEC. 8.~~

SEC. 10. Section 4996.275 is added to the Business and Professions Code, to read:

4996.275. (a) A licensee who began graduate study prior to January 1, 2010, shall complete a minimum of six hours of continuing education coursework in suicide prevention, assessment, intervention, and postintervention strategies during his or her first renewal period after the operative date of this section. The coursework shall also include training in community resources and an understanding of cultural factors that promote help-seeking behavior.

(b) The coursework required by this section shall be obtained from one of the following:

(1) An accredited or approved educational institution, as specified in Section 4996.18.

(2) A continuing education provider approved by the board.

(3) A course sponsored or offered by a professional association and approved by the board.

(4) A course sponsored or offered by a local, county, or state department of health or mental health and approved by the board.

(5) A course offered by a nationally certified nonprofit agency, including, but not limited to, a crisis center or a suicide prevention hotline, provided that the agency is a continuing education

provider, has at least five years of experience conducting suicide prevention training, and is approved by the board.

(c) A licensee shall submit to the board evidence acceptable to the board of the ~~person's~~ *licensee's* satisfactory completion of the coursework required by subdivision (a).

(d) A person seeking to meet the requirements of this section may submit to the board a certificate evidencing completion of equivalent coursework in suicide prevention, assessment, intervention, and postintervention strategies taken prior to the operative date of this section, or proof of equivalent teaching or practice experience. The board, in its discretion, may accept that certification as meeting the requirements of this section.

(e) A licensee may request an exemption from this section if he or she practices in an area where the training required by this section is not needed.

(f) The board may not renew an applicant's license until the applicant has met the requirements of this section.

(g) Continuing education courses taken pursuant to this section shall be applied to the 36 hours of approved continuing education required in Section 4996.22.

(h) This section shall become operative on January 1, 2011.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2398
Author: Nakanishi
Bill Date: April 10, 2008, amended
Subject: Cosmetic Surgery: Supervision
Sponsor: American Society for Dermatological Surgery

STATUS OF BILL:

This bill is currently in the Assembly Appropriations Committee and has not been set for hearing.

DESCRIPTION OF CURRENT LEGISLATION:

This bill seeks to address the problem of physicians lending their name and license number to businesses that perform cosmetic surgery for monetary payout by establishing supervision requirements for physicians who delegate the performance of elective cosmetic procedures. This bill allows for license revocation of a physician who violates these provisions.

ANALYSIS:

Current law requires specified disclosures to patients undergoing procedures involving collagen injections. In addition, existing law requires the Medical Board (Board) to adopt standards in regard to body liposuction procedures performed outside of a general acute care hospital. A violation of any of these provisions is a misdemeanor.

According to the author, current state regulatory guidance leaves unclear whether a physician must directly supervise an allied health professional when delegating certain types of cosmetic medical procedures that are provided in 'medi-spas,' including treatment involving lasers and pulse light. The author feels that the existing laws have been unsuccessful in deterring physicians from committing these illegal acts, and additional provisions are necessary.

Legislation such as SB 1423 (Figueroa), which required the Board and the Board of Registered Nursing (BRN) to study the issue of safety with the use of lasers in cosmetic procedures, has been directed at curbing this dangerous practice.

This bill seeks to strengthen current law on this issue and provide greater protection to patients seeking safe and responsible cosmetic care. Specifically, this bill would:

- Require any physician who delegates the performance or administration of any elective cosmetic medical procedure for treatment to a registered nurse must first perform an initial, good faith, and appropriate prior examination of the patient.
- State that direct supervision by the delegating physician to a nurse practitioner, physician assistant, or registered nurse is not required in a physician owned and operated treatment setting.
- Allow the patient to request "direct" supervisions of a procedure which would require the physicians be on site and available for immediate consultation. The bill does not require the practitioner to ask the patients if they desire direct supervision of a delegated procedure, so it is not clear how this provision protects an unaware patient.
- Limit the number and location of settings the physician may have for delegated procedures.
- Require the physician be available within 24 hours for emergent patient issues.
- Allow the Board to revoke the license of physicians, engaged in elective cosmetic medical practice, who knowingly contract to serve as the medical director of a business organization in violation of the prohibition against the corporate practice of medicine. A physician who violates this provision would also be guilty of a public offense punishable by imprisonment for two, three, or five years, or by a fine not exceeding $50,000.
- Make a violation of these provisions by a person or entity subject to a fine of up to $25,000 per occurrence pursuant to a civil penalty, or a citation issued by the Board, or imprisonment for up to six months, or both fine and imprisonment.

FISCAL: Minor

POSITION: Recommendation: Support

April 18, 2008

AMENDED IN ASSEMBLY APRIL 10, 2008

AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 2398

Introduced by Assembly Member Nakanishi

February 21, 2008

An act to amend Section 2417 of, and to add Section 2259.6 to, the Business and Professions Code, relating to the practice of medicine.

LEGISLATIVE COUNSEL'S DIGEST

AB 2398, as amended, Nakanishi. Practice of medicine: ~~cosmetic surgery.~~ employment of physicians and surgeons.

Existing law, the Medical Practice Act, establishes the Medical Board of California under the Department of Consumer Affairs, which licenses physicians and surgeons and regulates their practice.

Existing law, the Medical Practice Act, requires specified disclosures to patients undergoing procedures involving collagen injections, defined as any substance derived from, or combined with, animal protein. Existing law also requires the board to adopt extraction and postoperative care standards in regard to body liposuction procedures performed by a physician and surgeon outside of a general acute care hospital. Existing law makes a violation of these provisions a misdemeanor.

This bill would require a physician and surgeon who delegates to a registered nurse the performance or administration of any elective cosmetic medical procedure or treatment, as defined, to perform an initial, good faith, and appropriate prior examination of the patient for whom treatment has been delegated and to provide direct supervision

of that procedure or treatment under certain conditions. The bill would prohibit a physician and surgeon from delegating the performance or administration of elective cosmetic medical procedures or treatments to more than 4 separately addressed locations under his or her supervision, which must be located as specified. The bill would provide that a violation of that provision may subject the person or entity that has committed the violation to either a fine of up to $25,000 per occurrence pursuant to a citation issued by the board or a civil penalty of $25,000 per occurrence. The bill would also provide that multiple acts by any person or entity in violation of that provision shall be punishable by a fine not to exceed $25,000 or by imprisonment in a county jail not exceeding 6 months, or by both that fine and imprisonment. The bill would authorize the Attorney General to bring an action to enforce those provisions.

Because multiple violations of those provisions would be a crime, this bill would impose a state-mandated local program.

The Medical Practice Act restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specified exemptions. Existing law makes it unlawful to knowingly make, or cause to be made, any false or fraudulent claim for payment of a health care benefit, or to aid, abet, solicit, or conspire with any person to do so, and makes a violation of this prohibition a public offense.

This bill would ~~permanently revoke~~ *authorize the revocation of* the license of a physician and surgeon who practices medicine with a business organization knowing that it is owned or operated in violation of the prohibition against employment of licensed physicians and surgeons and podiatrists. The bill would also make a business organization that is owned and operated in violation of the prohibition, and that contracts with or employs a physician and surgeon to facilitate the offer or provision of professional services that may only be provided by a licensed physician and surgeon, guilty of a violation of the prohibition against knowingly making or causing to be made any false or fraudulent claim for payment of a health care benefit. Because ~~this~~ *the* bill would expand a public offense, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 2259.6 is added to the Business and Professions Code, to read:

2259.6. (a) Any physician and surgeon who delegates the performance or administration of any elective cosmetic medical procedure or treatment to a registered nurse shall, pursuant to the requirements of this article, perform an initial, good faith, and appropriate prior examination of the patient for whom treatment has been delegated. Subject to the provisions of subdivision (d), in a physician and surgeon-owned and operated treatment setting, direct supervision is not required upon delegation to a nurse practitioner, physician assistant, or registered nurse. In all circumstances, upon request of the patient, the delegating physician and surgeon shall afford the patient direct supervision of the procedure or treatment.

(b) Direct supervision shall mean that the physician and surgeon must be onsite and available for immediate consultation at the time of performance or administration of the procedure or treatment.

(c) As used in this section, "elective cosmetic medical procedure or treatment" means a medical procedure or treatment that is performed to alter or reshape normal structures of the body solely in order to improve appearance.

(d) In no event may a physician and surgeon delegate the performance or administration of elective cosmetic medical procedures or treatments to more than four separately addressed locations under his or her supervision, one of which shall be his or her primary practice location. These sites shall be located within a radius no greater than that which may be reached within 60 minutes from the physician and surgeon's primary practice location. A delegating physician and surgeon shall be available to attend to emergent patient circumstances within a reasonable time, not to exceed 24 hours from the onset of those circumstances.

(e) Notwithstanding any other provision of law, a violation of this section may subject the person or entity that has committed

the violation to either a fine of up to twenty-five thousand dollars ($25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-five thousand dollars ($25,000) per occurrence. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

(f) Multiple acts by any person or entity in violation of this section shall be punishable by a fine not to exceed twenty-five thousand dollars ($25,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

(g) The Attorney General may bring an action to enforce this section and to collect the fines or civil penalties authorized by subdivision (d) or (e).

SEC. 2. Section 2417 of the Business and Professions Code is amended to read:

2417. (a) If the Department of Insurance has evidence that a business is being operated in violation of this chapter, Part 4 (commencing with Section 13400) of Division 3 of the Corporations Code, or Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code, and that the business may be in violation of Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code, then the department shall report the business, and any physician and surgeon suspected of knowingly providing medical services for that business relative to a violation of Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code, to the appropriate regulatory agency. Upon receiving a report from the Department of Insurance of a suspected violation, the regulatory agency shall conduct an investigation. The requirement in subdivision (a) of Section 1872.95 of the Insurance Code for investigations to be conducted within existing resources does not apply to investigations required by this section. The Department of Insurance may consult with the appropriate regulatory department or agency prior to making its report to that department or agency, and this consultation shall not be deemed to require the department or agency to conduct an investigation.

(b) A physician and surgeon who practices medicine with a business organization knowing that it is owned or operated in violation of Section 1871.4 of the Insurance Code, Section 14107

or 14107.2 of the Welfare and Institutions Code, or Section 549 or 550 of the Penal Code shall have his or her license to practice permanently revoked.

(c) A physician and surgeon who practices medicine with a business organization, knowing that it is owned or operated in violation of Section 2400, ~~shall~~ *may* have his or her license to practice ~~permanently~~ revoked. A physician and surgeon who contracts to serve as, or otherwise allows himself or herself to be employed as, the medical director of a business organization that he or she does not own and that offers to provide or provides professional services that may only be provided by the holder of a valid physician's and surgeon's certificate under this chapter shall be deemed to have knowledge that the business organization is in violation of Section 2400.

(d) A business organization that is owned or operated in violation of Section 2400 and that contracts with, or otherwise employs, a physician and surgeon to facilitate its offers to provide, or the provision of, professional services that may only be provided by the holder of a valid physician's and surgeon's certificate is guilty of violating paragraph (6) of subdivision (a) of Section 550 of the Penal Code.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2439
Author: De La Torre
Bill Date: April 8, 2008, amended
Subject: Loan Repayment Program: Mandatory Fees
Sponsor: Author

STATUS OF BILL:

This bill is currently on the Assembly Floor.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would require the Medical Board (Board) to asses an additional $50 fee for the issuance and bi-annual renewal of a physician's license for the purpose of helping to fund the Steven M. Thompson Physician Corps Loan Repayment Program for the purpose of providing loan repayment awards. In addition, 15% of the funds collected would be dedicated to physicians practicing in geriatric settings.

ANALYSIS:

The Steven M. Thompson Corps Loan Repayment Program (Program) was established in 2002 through AB 982 (Firebaugh). Physicians who participate in this program and practice medicine in underserved communities are provided with a financial contribution to help defray the costs of their student loan dept. Since its inception, 399 physicians have submitted applications to participate in the program. Due to insufficient funding, only 94 applicants have been selected to receive awards through the program. Participants have served in communities including Los Angeles, Oakland, San Bernardino, Sonoma, Woodland, San Diego, San Francisco, and Humblodt.

This bill requires the assessment in addition to the set or waived fees. This means that every physician, including those in a status where renewal fees are waived must pay the $50 assessment for the program.

This bill directs the Program to direct 15% of the money collected pursuant to this bill to loan repayment applicants working in geriatric settings. This is to encourage physicians to work in those settings and to address the shortages of geriatric physicians.

FISCAL: Minor and absorbable to MBC.

Revenue this will generate for the physicians:

Annual paid renewals:	54,000 x $50 =	$2,700,000
Annual fee-exempt renewals:	5,000 x $50 =	$250,000
Initial Licenses:	2,000 x $50 =	$100,000
Initial Licenses (1/2) fee:	3,400 x $50 =	$170,000

TOTAL ADDITIONAL ANNUAL REVENUE = $3,220,000

POSITION: Recommendation: Oppose unless amended to require the mandatory fee to apply to only those licensees who are required to pay fees.

Or, oppose unless amended lower the mandatory fee to $25, which is essentially equal to the proposed reduction in fees for the diversion program ($22).

April 18, 2008

AMENDED IN ASSEMBLY APRIL 8, 2008

AMENDED IN ASSEMBLY MARCH 28, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 2439

Introduced by Assembly Member De La Torre
(Coauthor: Assembly Member Berg)

February 21, 2008

An act to amend Section 2023 of, and to amend and renumber Section 2435.2 of, the Business and Professions Code, *and to amend Section 128553 of the Health and Safety Code,* relating to physicians and surgeons, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2439, as amended, De La Torre. Steven M. Thompson Physician Corps Loan Repayment Program: fees.

Existing law establishes the Steven M. Thompson Physician Corps Loan Repayment Program in the California Physician Corps Program within the Health and Professions Education Foundation, which provides financial incentives, as specified, to a physician and surgeon for practicing in a medically underserved community. Existing law requires the Medical Board of California to assess an applicant for issuance or renewal of a physician and surgeon's license a voluntary $50 fee to be deposited into the Medically Underserved Account for Physicians, which is continuously appropriated to provide funding for operations of the loan repayment program.

This bill would make the payment of the $50 fee mandatory for applicants for issuance or renewal of a physician and surgeon's license. The bill would also provide that at least 15% of the funds collected be

dedicated to loan assistance for physicians and surgeons who agree to practice in geriatric care settings or settings that primarily serve adults over the age of 65 years or adults with disabilities. Because the bill would provide for the deposit of additional fees in a continuously appropriated fund, it would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2023 of the Business and Professions Code is amended to read:

2023. (a) The board, in conjunction with the Health Professions Education Foundation, shall study the issue of its providing medical malpractice insurance to physicians and surgeons who provide voluntary, unpaid services as described in subdivision (b) of Section 2083, and report its findings to the Legislature on or before January 1, 2008.

(b) The report shall include, but not be limited to, a discussion of the following items:

(1) The cost of administering a program to provide medical malpractice insurance to the physicians and surgeons and the process for administering the program.

(2) The options for providing medical malpractice insurance to the physicians and surgeons and for funding the coverage.

(3) Whether the licensure surcharge fee assessed under Section 2436.5 is sufficient to fund the provision of medical malpractice insurance for the physicians and surgeons.

(c) This section shall be implemented only after the Legislature has made an appropriation from the Contingent Fund of the Medical Board of California to fund the study.

SEC. 2. Section 2435.2 of the Business and Professions Code, as added by Section 1 of Chapter 293 of the Statutes of 2005, is amended and renumbered to read:

2436.5. (a) In addition to the fees charged for the initial issuance or biennial renewal of a physician and surgeon's certificate pursuant to Section 2435, and at the time those fees are charged, the board shall charge each applicant or renewing licensee an additional fifty-dollar ($50) fee for the purposes of this section.

(b) This fifty-dollar ($50) fee shall be paid at the time of application for initial licensure or biennial renewal. The fifty-dollar ($50) fee shall be due and payable along with the fee for the initial certificate or biennial renewal.

(c) The board shall transfer all funds collected pursuant to this section, on a monthly basis, to the Medically Underserved Account for Physicians created by Section 128555 of the Health and Safety Code for the Steven M. Thompson Physician Corps Loan Repayment Program.

(d) At least 15 percent of the funds collected pursuant this section shall be dedicated to loan assistance for physicians and surgeons who agree to practice in geriatric care settings or settings that primarily serve adults over the age of 65 years or adults with disabilities. Priority consideration shall be given to those physicians and surgeons who are trained in, and practice, geriatrics and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians.

SEC. 3. Section 128553 of the Health and Safety Code is amended to read:

128553. (a) Program applicants shall possess a current valid license to practice medicine in this state issued pursuant to Section 2050 of the Business and Professions Code.

(b) The foundation, in consultation with those identified in subdivision (b) of Section 123551, shall use guidelines developed by the Medical Board of California for selection and placement of applicants until the office adopts other guidelines by regulation.

(c) The guidelines shall meet all of the following criteria:

(1) Provide priority consideration to applicants that are best suited to meet the cultural and linguistic needs and demands of patients from medically underserved populations and who meet one or more of the following criteria:

(A) Speak a Medi-Cal threshold language.

(B) Come from an economically disadvantaged background.

(C) Have received significant training in cultural and linguistically appropriate service delivery.

(D) Have three years of experience working in medically underserved areas or with medically underserved populations.

(E) Have recently obtained a license to practice medicine.

(2) Include a process for determining the needs for physician services identified by the practice setting and for ensuring that the

practice setting meets the definition specified in subdivision (h) of Section 128552.

(3) Give preference to applicants who have completed a three-year residency in a primary specialty.

(4) Seek to place the most qualified applicants under this section in the areas with the greatest need.

(5) Include a factor ensuring geographic distribution of placements.

(6) On and after January 1, 2009, at least 15 percent of the funds collected pursuant to Section 2436.5 of the Business and Professions Code shall be dedicated to loan assistance for physicians and surgeons who agree to practice in geriatric care settings or settings that primarily serve adults over the age of 65 years or adults with disabilities. Priority consideration shall be given to those who are trained in, and practice, geriatrics and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians.

(d) (1) The foundation may appoint a selection committee that provides policy direction and guidance over the program and that complies with the requirements of subdivision (*l*) of Section 128552.

(2) The selection committee may fill up to 20 percent of the available positions with program applicants from specialties outside of the primary care specialties.

(e) Program participants shall meet all of the following requirements:

(1) Shall be working in or have a signed agreement with an eligible practice setting.

(2) Shall have full-time status at the practice setting. Full-time status shall be defined by the board and the selection committee may establish exemptions from this requirement on a case-by-case basis.

(3) Shall commit to a minimum of three years of service in a medically underserved area. Leaves of absence shall be permitted for serious illness, pregnancy, or other natural causes. The selection committee shall develop the process for determining the maximum permissible length of an absence and the process for reinstatement. Loan repayment shall be deferred until the physician is back to full-time status.

(f) The office shall adopt a process that applies if a physician is unable to complete his or her three-year obligation.

(g) The foundation, in consultation with those identified in subdivision (b) of Section 128551, shall develop a process for outreach to potentially eligible applicants.

(h) The foundation may recommend to the office any other standards of eligibility, placement, and termination appropriate to achieve the aim of providing competent health care services in approved practice settings.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2442
Author: Nakanishi
Bill Date: March 25, 2008, amended
Subject: MBC: Peer Review Proceedings
Sponsor: Medical Board of California
Board Position: Sponsor/Support

STATUS OF BILL:

This bill is currently on the Assembly Floor.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would repeal Business and Professions Code sections 821.5 and 821.6 which require reporting to the Medical Board (Board) diversion program by health entities physicians under investigation with mental and physical illnesses.

ANALYSIS:

Business and Professions Code sections 821.5 and 821.6 were added to law in 1996 to require reporting to the Board's diversion program related to physicians under investigation by health entities with mental and physical illnesses. This provided the diversion program a "heads up" that there maybe an issue and that a physician may be recommended to enter the program.

With the diversion program due to sunset June 30, 2008 those reporting requirements will no longer be necessary. Should the investigation by the health entity lead to actions that rise to a high enough level, then those physicians must be reported to the Board under Business and Professions Code section 805. Therefore these provisions are no longer necessary.

FISCAL: None

POSITION: Sponsor/Support

April 18, 2008

AMENDED IN ASSEMBLY MARCH 25, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 2442

Introduced by Assembly Member Nakanishi

February 21, 2008

An act to ~~amend~~ *repeal* Sections 821.5 and 821.6 of the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2442, as amended, Nakanishi. Medicine: peer review proceedings.

~~Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California.~~

Existing law requires peer review bodies that review physicians and surgeons to report certain information regarding investigations of physicians and surgeons who may be suffering from a disabling mental or physical condition to the diversion program of the Medical Board of California, *which program becomes inoperative July 1, 2008,* and requires the diversion program administrator to carry out specified duties in this regard. Existing law requires the board to adopt regulations implementing the monitoring responsibility of the diversion program administrator on or before January 1, 1997, as specified. ~~Under existing law, the diversion program becomes inoperative on July 1, 2008.~~

~~This bill would transfer the duties of the diversion program and the diversion program administrator with regard to the peer review body reports to the Medical Board of California and the board's executive director or designee. The bill would require the board to adopt regulations implementing the monitoring responsibility of the executive~~

~~director or designee on or before January 1, 2009, as specified. The bill would make conforming changes.~~

This bill would delete these provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 821.5 of the Business and Professions Code is repealed.

~~821.5. (a) A peer review body, as defined in Section 805, that reviews physicians and surgeons, shall, within 15 days of initiating a formal investigation of a physician and surgeon's ability to practice medicine safely based upon information indicating that the physician and surgeon may be suffering from a disabling mental or physical condition that poses a threat to patient care, report to the diversion program of the Medical Board the name of the physician and surgeon under investigation and the general nature of the investigation. A peer review body that has made a report to the diversion program under this section shall also notify the diversion program when it has completed or closed an investigation.~~

~~(b) The diversion program administrator, upon receipt of a report pursuant to subdivision (a), shall contact the peer review body that made the report within 60 days in order to determine the status of the peer review body's investigation. The diversion program administrator shall contact the peer review body periodically thereafter to monitor the progress of the investigation. At any time, if the diversion program administrator determines that the progress of the investigation is not adequate to protect the public, the diversion program administrator shall notify the chief of enforcement of the Division of Medical Quality of the Medical Board of California, who shall promptly conduct an investigation of the matter. Concurrently with notifying the chief of enforcement, the diversion program administrator shall notify the reporting peer review body and the chief executive officer or an equivalent officer of the hospital of its decision to refer the case for investigation by the chief of enforcement.~~

~~(c) For purposes of this section "formal investigation" means an investigation ordered by the peer review body's medical executive committee or its equivalent, based upon information indicating that the physician and surgeon may be suffering from a disabling mental or physical condition that poses a threat to patient care. "Formal investigation" does not include the usual activities of the well-being or assistance committee or the usual quality assessment and improvement activities undertaken by the medical staff of a health facility in compliance with the licensing and certification requirements for health facilities set forth in Title 22 of the California Code of Regulations, or preliminary deliberations or inquiries of the executive committee to determine whether to order a formal investigation.~~

~~For purposes of this section, "usual activities" of the well-being or assistance committee are activities to assist medical staff members who may be impaired by chemical dependency or mental illness to obtain necessary evaluation and rehabilitation services that do not result in referral to the medical executive committee.~~

~~(d) Information received by the diversion program pursuant to this section shall be governed by, and shall be deemed confidential to the same extent as program records under, Section 2355. The records shall not be further disclosed by the diversion program, except as provided in subdivision (b).~~

~~(e) Upon receipt of notice from a peer review body that an investigation has been closed and that the peer review body has determined that there is no need for further action to protect the public, the diversion program shall purge and destroy all records in its possession pertaining to the investigation unless the diversion program administrator has referred the matter to the chief of enforcement pursuant to subdivision (b).~~

~~(f) A peer review body that has made a report under subdivision (a) shall not be deemed to have waived the protections of Section 1157 of the Evidence Code. It is not the intent of the Legislature in enacting this subdivision to affect pending litigation concerning Section 1157 or to create any new confidentiality protection except as specified in subdivision (d). "Pending litigation" shall include Arnett v. Dal Cielo (No. S048308), pending before the California Supreme Court.~~

~~(g) The report required by this section shall be submitted on a short form developed by the board. The board shall develop the~~

~~short form, the contents of which shall reflect the requirements of this section, within 30 days of the effective date of this section. The board shall not require the filing of any report until the short form is made available by the board.~~

~~(h) This section shall become operative on January 1, 1997, unless the regulations required to be adopted pursuant to Section 821.6 are adopted prior to that date, in which case this section shall become operative on the effective date of the regulations.~~

SEC. 2. Section 821.6 of the Business and Professions Code is repealed.

~~821.6. The board shall adopt regulations to implement the monitoring responsibility of the diversion program administrator described in subdivision (b) of Section 821.5, and the short form required to be developed pursuant to subdivision (g), on or before January 1, 1997.~~

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that reporting requirements administered by the diversion program of the Medical Board of California are deleted when that program becomes inoperative, it is necessary that this act take effect immediately.

~~SECTION 1. Section 821.5 of the Business and Professions Code is amended to read:~~

~~821.5. (a) A peer review body, as defined in Section 805, that reviews physicians and surgeons, shall, within 15 days of initiating a formal investigation of a physician and surgeon's ability to practice medicine safely based upon information indicating that the physician and surgeon may be suffering from a disabling mental or physical condition that poses a threat to patient care, report to the Medical Board the name of the physician and surgeon under investigation and the general nature of the investigation. A peer review body that has made a report under this section to the Medical Board's executive director or designee, who is not in the enforcement program, shall also notify the executive director or designee when it has completed or closed an investigation.~~

~~(b) The executive director or designee, upon receipt of a report pursuant to subdivision (a), shall contact the peer review body that made the report within 60 days in order to determine the status of~~

~~the peer review body's investigation. The executive director or designee shall contact the peer review body periodically thereafter to monitor the progress of the investigation. At any time, if the executive director or designee determines that the progress of the investigation is not adequate to protect the public, the executive director or designee shall notify the chief of enforcement of the Medical Board of California, who shall promptly conduct an investigation of the matter. Concurrently with notifying the chief of enforcement, the executive director or designee shall notify the reporting peer review body and the chief executive officer or an equivalent officer of the hospital of its decision to refer the case for investigation by the chief of enforcement.~~

~~(c) For purposes of this section, "formal investigation" means an investigation ordered by the peer review body's medical executive committee or its equivalent, based upon information indicating that the physician and surgeon may be suffering from a disabling mental or physical condition that poses a threat to patient care. "Formal investigation" does not include the usual activities of the well-being or assistance committee or the usual quality assessment and improvement activities undertaken by the medical staff of a health facility in compliance with the licensing and certification requirements for health facilities set forth in Title 22 of the California Code of Regulations, or preliminary deliberations or inquiries of the executive committee to determine whether to order a formal investigation.~~

~~For purposes of this section, "usual activities" of the well-being or assistance committee are activities to assist medical staff members who may be impaired by chemical dependency or mental illness to obtain necessary evaluation and rehabilitation services that do not result in referral to the medical executive committee.~~

~~(d) Information received by the board pursuant to this section shall be deemed confidential. The records shall not be further disclosed by the board, except as provided in subdivision (b).~~

~~(e) Upon receipt of notice from a peer review body that an investigation has been closed and that the peer review body has determined that there is no need for further action to protect the public, the board shall purge and destroy all records in its possession pertaining to the investigation unless the executive director or designee has referred the matter to the chief of enforcement pursuant to subdivision (b).~~

~~(f) A peer review body that has made a report under subdivision (a) shall not be deemed to have waived the protections of Section 1157 of the Evidence Code. It is not the intent of the Legislature in enacting this subdivision to affect pending litigation concerning Section 1157 or to create any new confidentiality protection except as specified in subdivision (d).~~

~~(g) The report required by this section shall be submitted on a short form developed by the board. The board shall develop the short form, the contents of which shall reflect the requirements of this section, within 30 days of the effective date of this section. The board shall not require the filing of any report until the short form is made available by the board.~~

~~(h) This section shall become operative on January 1,, unless the regulations required to be adopted pursuant to Section 821.6 are adopted prior to that date, in which case this section shall become operative on the effective date of the regulations.~~

~~SEC. 2. Section 821.6 of the Business and Professions Code is amended to read:~~

~~821.6. The board shall adopt regulations to implement the monitoring responsibility of the executive director or designee described in subdivision (b) of Section 821.5, and the short form required to be developed pursuant to subdivision (g), on or before January 1, 2009.~~

~~SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~In order to ensure that duties of the diversion program of the Medical Board of California are transferred prior to the inoperative date of that program, it is necessary that this act take effect immediately.~~

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 2443
Author:	Nakanishi
Bill Date:	February 21, 2008, introduced
Subject:	MBC: Physician Well-Being
Sponsor:	Medical Board of California
Position:	Sponsor/Support

STATUS OF BILL:

This bill is currently in the Assembly Appropriations Committee and has been set for hearing on April 23, 2008.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would require the Medical Board (Board) to establish a program to promote the well-being of medical students, post graduate trainees, and licensed physicians. The program should address and prevent illness and burnout due to stress, overworking, and professional dissatisfaction by including an evaluation of wellness education.

ANALYSIS:

Through their extensive education and training, physicians are seen as the preeminent healthcare providers of the world. But the wellness of the patient relies on the wellness of the practitioner, who often gives priority to those under his care before his own well being and that of his family. The stresses of the job are created by a broad spectrum of factors yet can significantly impact the effectiveness of a physician.

Current law does not address the issue of physician wellness. However, since the mission of the Board is to protect healthcare consumers, it must be recognized that this best can be achieved by having healthy physicians care for their patients

During the past year, the Board has been discussing the issue of physician wellness. The focus of the review centered on the benefits that might be derived from the implementation of the program to assist with licensees' well-being. The Board believes that any action which promotes the prevention of physician "unwellness" is a worthwhile effort. This concept was formalized in the creation of a Wellness Committee in summer of 2007.

Concerns have been raised regarding the cost of this program. Staff offered the author amendments to establish the program within existing resources.

FISCAL: None

POSITION: Sponsor/Support

April 18, 2008

ASSEMBLY BILL No. 2443

Introduced by Assembly Member Nakanishi

February 21, 2008

An act to add Section 2005 to the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

AB 2443, as introduced, Nakanishi. Medical Board of California: physician and surgeon well-being.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and vests the board with certain responsibilities.

This bill would require the board to establish a program to promote the well-being of physicians and surgeons and would require the program to include, but not be limited to, an examination of wellness education for medical students, postgraduate trainees, and licensed physicians and surgeons.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2005 is added to the Business and Professions Code, to read:

2005. The board shall establish a program to promote the well-being of physicians and surgeons. This program shall include, but not be limited to, an examination of wellness education for

medical students, postgraduate trainees, and licensed physicians and surgeons.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 2444
Author:	Nakanishi
Bill Date:	February 21, 2008, introduced
Subject:	MBC: Public Letters of Reprimand with Education
Sponsor:	Medical Board of California
Board Position:	Sponsor/Support

STATUS OF BILL:

This bill is currently on the Assembly Floor.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would allow the Medical Board (Board) to include requirements for specific education and training as part of rehabilitation for offenses in public letters of reprimand.

ANALYSIS:

Currently, if the Board feels the appropriate level of discipline for a physician is a public letter of reprimand with some required training in ethics or record keeping, the Board must file a formal accusation against a physician in order to require the specific education and training as part of the settlement which includes a public letter of reprimand. This process is time consuming and costly for both the Board and the physician, as the filing of an accusation is a full blown legal proceeding and goes on the public record in this form. If the board were allowed to issue a public letter of reprimand with specified education and training as the only additional requirements being sought by the Board, this would expedite the disciplinary process for both the consumer and the physician.

Allowing the Board to include requirements for specific education and training as part of rehabilitation for offenses in public letters of reprimand would reduce the number of formal accusations filed by Enforcement, while continuing to allow for public disclosure of the fiscal action. This would benefit the consumer by expediting the final action, and the Board and the physician by drastically reducing time and costs. In addition, it would further the mission of consumer protection by providing public disclosure of the discipline and rehabilitation of physicians.

FISCAL: None

POSITION: Sponsor/Support

April 18, 2008

ASSEMBLY BILL No. 2444

Introduced by Assembly Member Nakanishi

February 21, 2008

An act to amend Section 2233 of the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

AB 2444, as introduced, Nakanishi. Medical Board of California: disciplinary actions.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under existing law, the board is responsible for administering the disciplinary provisions of the act and is authorized to issue public letters of reprimand under specified circumstances, rather than filing or prosecuting a formal accusation.

This bill would allow the board to include in a public letter of reprimand a requirement for specified training.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2233 of the Business and Professions Code is amended to read:

2233. *(a)* The ~~Division of Medical Quality~~ *board* may, by stipulation or settlement with the affected physician and surgeon, issue a public letter of reprimand after it has conducted an investigation or inspection as provided in this article, in lieu of

filing or prosecuting a formal accusation. The affected physician and surgeon shall indicate agreement or nonagreement in writing within 30 days of formal notification by the ~~division~~ *board* of its intention to issue the letter. The ~~division~~ *board*, at its option, may extend the response time. Use of a public reprimand shall be limited to minor violations and shall be issued under guidelines established by regulations of the board. A public letter of reprimand issued pursuant to this section may be disclosed to an inquiring member of the public.

(b) Notwithstanding any other provision of law, a public letter of reprimand issued pursuant to this section may, at the discretion of the board, include a requirement for specified training.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2445
Author: Nakanishi
Bill Date: April 1, 2008, amended
Subject: MBC: Licensing Public Letters of Reprimand
Sponsor: Medical Board of California
Board Position: Sponsor/Support

STATUS OF BILL:

This bill is currently on the Assembly Floor.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would allow the Medical Board (Board) to issue a public letter of reprimand to applicants who have committed lesser violations with regard to unprofessional conduct.

ANALYSIS:

Current law does not allow the Board to issue a public letter of reprimand to an applicant. Applicants who have previous violations are issued a physician's license in a probationary status.

Allowing the Board to issue a public letter of reprimand in lieu of probation to applicants who have committed lesser violations with regard to unprofessional conduct would benefit the Board as well as the physician, while continuing the mission of public protection, as the public letter of reprimand is a public document. The public letter of reprimand would be purged from the licensee's record after three years, the same period of time a probationary license would terminate for the lesser violations.

FISCAL: None

POSITION: Sponsor/Support

April 18, 2008

AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 2445

Introduced by Assembly Member Nakanishi

February 21, 2008

An act to amend Section 2221 of, and to add Section 2221.05 to, the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

AB 2445, as amended, Nakanishi. Medical Board of California: disciplinary procedures: applicants.

Existing law, the Medical Practice Act, creates the Medical Board of California and makes it responsible for issuing a physician's and surgeon's certificate to qualified applicants. Upon a determination that an applicant is guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license, the act authorizes the board to deny his or her application or to issue a probationary certificate that is subject to conditions of probation.

This bill would authorize the board to issue a physician's and surgeon's certificate to an applicant who has committed lesser violations, as specified, and to concurrently issue a public letter of reprimand, *which would be purged 3 years from the date of issuance.*

This bill would also make technical, nonsubstantive, and clarifying changes to a related provision with regard to reapplication procedures and obsolete references, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2221 of the Business and Professions Code is amended to read:

2221. (a) The board may deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license; or, the board in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.

(2) Total or partial restrictions on drug prescribing privileges for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

(7) Restrictions against engaging in certain types of medical practice.

(8) Compliance with all provisions of this chapter.

(9) Payment of the cost of probation monitoring.

(b) The board may modify or terminate the terms and conditions imposed on the probationary certificate upon receipt of a petition from the licensee.

(c) Enforcement and monitoring of the probationary conditions shall be under the jurisdiction of the board in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code, and the review procedures set forth in Section 2335.

(d) The board shall deny a physician's and surgeon's certificate to an applicant who is required to register pursuant to Section 290 of the Penal Code. This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(e) An applicant shall not be eligible to reapply for a physician's and surgeon's certificate for a minimum of three years from the effective date of the final decision or action regarding the denial of his or her application, except that the board may, in its discretion and for good cause demonstrated, permit reapplication after not less than one year has elapsed from the effective date of the final decision or action regarding the denial.

SEC. 2. Section 2221.05 is added to the Business and Professions Code, to read:

2221.05. (a) Notwithstanding subdivision (a) of Section 2221, the board may issue a physician's and surgeon's certificate to an applicant who has committed lesser violations that ~~do not, in the board's discretion,~~ *the board deems, in its discretion, do not* merit the denial of a certificate or require probationary status under Section 2221, and may concurrently issue a public letter of reprimand.

(b) A public letter of reprimand issued concurrently with a physician's and surgeon's certificate shall be purged three years from the date of issuance.

(c) A public letter of reprimand issued pursuant to this section may be disclosed to an inquiring member of the public.

~~(b)~~

(d) Nothing in this section shall be construed to affect the board's authority to issue an unrestricted license.

O

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2482
Author: Maze
Bill Date: February 21, 2008, Introduced
Subject: Physician Assistants: continuing education
Sponsor: Author

STATUS OF BILL:

This bill is currently on the Assembly Floor.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would permit the Physician Assistant Committee (PAC) to require, by regulatory action, its licensees to complete up to 50 hours of continuing education in order to renew their licenses. The bill would also give the PAC discretion to accept certification by the National Commission on Certification of Physician Assistants (NCCPA) or another qualified certifying body as evidence of compliance with continuing education requirements.

ANALYSIS:

Current law requires physician assistants to renew their licenses every two years by completing an application form and paying a renewal fee to the PAC. Existing law does not have any requirements for continuing medical education, however, most other states do require continuing education or its equivalent. The PAC believes it is an important public protection to require licensees to keep educated on current medical practices and community care standards.

Although there is no current requirement for continuing education in order to renew a physician assistant license, a physician assistant may choose to be certified by the NCCPA, which permits a designation of Physician Assistant Certified (PA-C). This certification requires 100 hours of continuing education every two years and taking a recertification exam every six years. Approximately 90 percent of physician assistants in California are PA-Cs.

This bill would allow the Committee to set continuing education requirements. Those physician assistants who are also PA-Cs could satisfy both requirements simultaneously.

FISCAL: None

POSITION: Recommendation: Support

April 18, 2008

ASSEMBLY BILL No. 2482

Introduced by Assembly Members Maze and Bass

February 21, 2008

An act to add Section 3524.5 to the Business and Professions Code, relating to physician assistants.

LEGISLATIVE COUNSEL'S DIGEST

AB 2482, as introduced, Maze. Physician assistants: continuing education.

Existing law, the Physician Assistant Practice Act, establishes the Physician Assistant Committee of the Medical Board of California. Under existing law, the committee licenses physician assistants under the name of the board and regulates the practice of physician assistants. Existing law provides for the renewal of unexpired licenses and certain expired licenses by applying for renewal on a form provided by the committee and paying certain fees, as specified.

This bill would authorize the committee to require a licensee to complete continuing education as a condition of license renewal. The bill would prohibit the committee from requiring more than 50 hours of continuing education every 2 years and would require the committee to, as it deems appropriate, accept certification by a specified commission or another qualified certifying body as evidence of compliance with continuing education requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 3524.5 is added to the Business and Professions Code, to read:

3524.5. The committee may require a licensee to complete continuing education as a condition of license renewal under Section 3523 or 3524. The committee shall not require more than 50 hours of continuing education every two years. The committee shall, as it deems appropriate, accept certification by the National Commission on Certification of Physician Assistants (NCCPA), or another qualified certifying body, as determined by the committee, as evidence of compliance with continuing education requirements.

O

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2516
Author: Mendoza
Bill Date: February 21, 2008, introduced
Subject: Prescriptions: electronic transmission
Sponsor: Author

STATUS OF BILL:

This bill is currently in the Assembly Business and Professions Committee and has been set for hearing on April 29, 2008.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would require physicians to send prescriptions electronically to a patient's pharmacy of choice.

ANALYSIS:

Electronic prescribing is a safe and efficient system of filling prescriptions that avoids misunderstandings between doctors and pharmacies. Errors caused by paper mix-ups and unclear handwriting have resulted in sickness and death. According to the Institute for Safe Medicine Practices (ISMP), the number of reports of illegible handwriting and incorrect dosages has reached over an estimated 150 million. The ISMP also says that research shows that injuries resulting from medication errors and not the fault of the practitioner, but rather represent the failure of a complex healthcare system.

On January 1, 2010, this bill will require physicians to send prescription notices to a patient's pharmacy with a few exceptions. This will make the process of filling prescriptions simple and fast, but it will require all prescribers to have the capability and security features by 2010. This may be workable for large systems and practices but it may not be realistic for those single practitioner offices or those in outlying areas.

Electronic prescriptions are often filled before the patient arrives at the pharmacy. Currently, Kaiser and UC medical centers are among the many healthcare providers already using the E-prescribing system.

FISCAL: None

POSITION: Recommendation: Support if amended to provide an exception or extended implementation date for special cases appealed to the Pharmacy Board.

April 18, 2008

ASSEMBLY BILL No. 2516

Introduced by Assembly Member Mendoza

February 21, 2008

An act to add Section 4072.5 to the Business and Professions Code, relating to prescriptions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2516, as introduced, Mendoza. Prescriptions: electronic transmission.

The Pharmacy Law regulates, among other matters, the dispensing by prescription of dangerous drugs and dangerous devices, and sets forth specified requirements for prescriptions. Existing law authorizes a prescriber or his or her authorized agent to electronically transmit a prescription to a pharmacist, subject to certain exceptions. A knowing violation of the Pharmacy Law is a crime.

This bill would, commencing January 1, 2010, require a prescriber to ensure that any prescription issued or made by him or her be electronically transmitted to the patient's pharmacy of choice, except as specified. The bill would provide that a violation of these provisions is not a crime.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4072.5 is added to the Business and Professions Code, to read:

4072.5. (a) A prescriber shall ensure that any prescription issued or made by him or her be electronically transmitted to the patient's pharmacy of choice, except for any of the following:

(1) A prescription required by federal law to be transmitted in another manner.

(2) A prescription that is prevented from being transmitted electronically at the time of issuance by an emergency or unexpected technical problem.

(3) An order meeting the requirements of Section 4019 if the prescribed drug is to be administered at the hospital.

(b) Notwithstanding any other provisions of law, a violation of this section shall not be a crime.

(c) This section shall become operative on January 1, 2010.

O

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2543
Author: Berg
Bill Date: April 7, 2008, amended
Subject: Loan Repayment Program: geriatric workforce
Sponsor: Author

STATUS OF BILL:

This bill is currently in the Assembly Appropriations Committee.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would establish the Geriatric and Gerontology Workforce Expansion Act, which would be administered by the Office of Statewide Health Planning, and Development (OSHPD), to provide loan repayment assistance to nurses, social workers, and marriage and family therapists who work in a geriatric care setting.

This bill would also require the Steven M. Thompson Physician Corps Loan Repayment Program, within the Health and Professions Education Foundation, to fill 15% of the available positions with program applicants that agree to practice in a geriatric care setting. These provisions would become operative only if AB 2439 (De La Torre) is enacted and becomes effective on or before January 1, 2009.

ANALYSIS:

California currently faces a severe shortage of professionals needed to operate programs and provide services to older adults. The greatest gaps in the geriatric workforce are shown to be in the medical and social work fields. There are approximately 890 board-certified geriatricians in the state, only one for every 4,000 Californians over the age of 65.

In an attempt to fill the growing workforce gaps in geriatric services, this bill establishes the California Geriatric and Gerontology Workforce Expansion Act of 2008. Administered by the OSHPD, this act would set up loan repayment assistance for physicians, nurses, social workers, and marriage and family therapists.

For physicians, this bill would require the Steven M. Thompson Physician Corps Loan Repayment Program under the Health and Professions Education Foundation to fill 15% of the available positions within the program with applicants who agree to practice in a geriatric care setting.

FISCAL: None to the Board.

POSITION: Recommendation: Support

April 18, 2008

AMENDED IN ASSEMBLY APRIL 7, 2008

AMENDED IN ASSEMBLY MARCH 25, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 2543

Introduced by Assembly Member Berg
(Coauthor: Assembly Member De La Torre)

February 22, 2008

An act to add Sections 2815.2, 4984.75, and 4996.66 to the Business and Professions Code, and to amend Sections 128552 and 128553 of, to add Article 5 (commencing with Section 128305) and Article 6 (commencing with Section 128310) to Chapter 4 of Part 3 of Division 107 of, and to add Chapter 6 (commencing with Section 128559) to Part 3 of Division 107 of, the Health and Safety Code, relating to loan assistance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2543, as amended, Berg. Geriatric and Gerontology Workforce Expansion Act.

(1) Existing law provides for the licensure and regulation of nurses, social workers, and marriage and family therapists by specified boards. Existing law requires those persons to pay licensing and renewal fees for licensure, as specified.

This bill would establish the Geriatric and Gerontology Workforce Expansion Act, which would be administered by the Office of Statewide Health Planning and Development to provide loan repayment assistance to nurses, social workers, and marriage and family therapists who work in a geriatric care setting, as specified. For those purposes, the bill would

raise the licensing and renewal fees of these licensees by $10, as specified, for deposit into the continuously appropriated funds of the boards described above, thereby making an appropriation.

This bill would also establish the California Geriatric and Gerontology Student Loan Assistance Program of 2008, which would be administered by the Office of Statewide Health Planning and Development for purposes of providing loan assistance to students who intend to become employed as licensed health care professionals, social workers, or marriage and family therapists in a geriatric care setting, as specified. Those provisions would only become operative if appropriate funding, as determined by the office, is made available. The bill would require the office to report annually to the Legislature with regard to the program, as specified.

(2) Existing law establishes the Steven M. Thompson Physician Corps Loan Repayment Program in the California Physician Corps Program within the Health and Professions Education Foundation, which provides financial incentives, as specified, to a physician and surgeon for practicing in a medically underserved community. Existing law authorizes the foundation to appoint a selection committee to provide policy direction and guidance over the program.

This bill would require that selection committee to fill 15% of the available positions with program applicants that agree to practice in a geriatric care setting. These provisions would become operative only if AB 2439 is enacted and becomes effective on or before January 1, 2009.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Geriatric and Gerontology Workforce Expansion Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) The population of California is aging at an exponential rate with Californians who are 65 years of age or over reaching 6.5 million by 2010, which is over 14 percent of the total population, and reaching over 9 million by 2020.

(b) The greatest growth within the aging population will be those who are 85 years of age or older who will, by 2030, comprise one in five of California's older residents.

(c) As California ages, it will become more racially and ethnically diverse, with African Americans, Latinos, and Asian Americans exceeding 40 percent of the older adult population, many of whom were born outside the United States; meaning, therefore, that there is a greater need for those providing services to older adults to be bilingual or multilingual.

(d) It is the policy of the Mello-Granlund Older Californians Act (Division 8.5 (commencing with Section 9000) of the Welfare and Institutions Code) that older adults and those with disabilities live as independent from institutions as much as possible and as long as possible.

(e) It is the policy of the Mello-Granlund Older Californians Act (Division 8.5 (commencing with Section 9000) of the Welfare and Institutions Code) that to live independently, older Californians must have an array of home and community-based services, in conjunction with the federal Older Americans Act (42 U.S.C. Sec. 3001 et seq.), that support a quality of life and saves taxpayer dollars in contrast to the cost of institutionalization.

(f) In order to sustain an independent lifestyle for older adults, there must be trained gerontologists and health care professionals trained in geriatrics to address the social and health needs of older adults as they age.

(g) At present, California faces a severe shortage of professional and paraprofessional gerontologists and geriatricians needed to operate programs and provide services for older adults. Currently, there is only one board-certified physician geriatrician per 4,000 Californians who are 65 years of age or older; and currently, only 5 percent of social workers are trained in gerontology or geriatrics, yet 62 percent of licensed social workers have, or have had, care management responsibilities.

(h) Incentives for recruiting students into training for careers in gerontology and geriatrics must be developed in order to fill the gap between workforce supply and demand lest the state incur the greater cost of institutionalization and the quality of life for older Californians suffers.

(i) Student loan forgiveness programs are a proven method of inducing health care professionals to pursue stipulated career fields for a specified time in exchange for loan assistance.

SEC. 3. Section 2815.2 is added to the Business and Professions Code, to read:

2815.2. In addition to the fees charged for initial issuance or biennial renewal of a license pursuant to Section 2815, and at the time those fees are charged, the board shall charge each applicant or licensee an additional fee of ten dollars ($10) for the purposes of the California Geriatric Registered Nurses Loan Assistance Program of 2008 (Article 5 (commencing with Section 128305) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code). Payment of this ten-dollar ($10) fee shall be made at the time of application for initial licensure or biennial renewal. All fees collected pursuant to this section shall be deposited in the Geriatric Registered Nurses Account, as provided in Section 128305.4 of the Health and Safety Code.

SEC. 4. Section 4984.75 is added to the Business and Professions Code, to read:

4984.75. In addition to the fees charged for initial issuance or biennial renewal of a license pursuant to Section 4984.7, and at the time those fees are charged, the board shall charge each applicant or licensee an additional fee of ten dollars ($10) for the purposes of the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008 (Article 6 (commencing with Section 128310) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code). Payment of this ten-dollar ($10) fee shall be made at the time of application for initial licensure or biennial renewal. All fees collected pursuant to this section shall be deposited in the Geriatric Social Workers and Marriage and Family Therapists Account, as provided in Section 128310.4 of the Health and Safety Code.

SEC. 5. Section 4996.66 is added to the Business and Professions Code, to read:

4996.66. In addition to the fees charged for initial issuance or biennial renewal of a license pursuant to Section 4996.3, and at the time those fees are charged, the board shall charge each applicant or licensee an additional fee of ten dollars ($10) for the purposes of the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008 (Article 6 (commencing with Section 128310) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code). Payment of this ten-dollar ($10) fee shall be made at the time of application for initial licensure or biennial renewal. All fees collected pursuant to this section shall be deposited in the Geriatric Social Workers and

Marriage and Family Therapists Account, as provided in Section 128310.4 of the Health and Safety Code.

SEC. 6. Article 5 (commencing with Section 128305) is added to Chapter 4 of Part 3 of Division 107 of the Health and Safety Code, to read:

Article 5. California Geriatric Registered Nurses Loan Assistance Program of 2008

128305. There is hereby established in the Office of Statewide Health Planning and Development, the California Geriatric Registered Nurses Loan Assistance Program of 2008.

128305.1. It is the intent of this article that the office, in consultation with the board, the medical community, including representatives of ethnic minority groups, medical schools, health advocates, primary care clinics, public hospitals and health care systems, statewide agencies administering state and federally funded health programs targeting communities of older Californians, and members of the public with health care issue-area expertise, shall develop and implement the California Geriatric Registered Nurses Loan Assistance Program of 2008.

128305.2. For purposes of this article, the following terms have the following meanings:

(a) "Account" means the Geriatric Registered Nurses Account that is contained within the fund.

(b) "Board" means the Board of Registered Nursing.

(c) "Fund" means the Board of Registered Nursing Fund.

(d) "Geriatrics" means the practice of nursing, with training in, and application to, older adults who are 65 years of age or older or those with disabilities.

(e) "Office" means the Office of Statewide Health Planning and Development.

(f) "Program" means the California Geriatric Registered Nurses Loan Assistance Program of 2008.

128305.3. (a) Program applicants shall possess a current valid license to practice registered nursing in this state issued by the board pursuant to Section 2742 of the Business and Professions Code.

(b) The office shall develop the guidelines for selection and placement of applicants. The guidelines shall do all of the following:

(1) Provide priority consideration to applicants who are trained in, and practice, geriatric nursing, including, but not limited to, nurses with doctorate degrees in gerontology, geriatric nurse practitioners, and geriatric nurse clinicians, and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians.

~~(2) Provide priority consideration to applicants who are recognized as geriatric nurse practitioners or geriatric nurse clinicians and that have recently obtained their license to practice as a registered nurse.~~

~~(3)~~

(2) Give preference to applicants who have completed a residency in nursing.

~~(4)~~

(3) Seek to place the most qualified applicants under this section in the areas with the greatest need.

~~(5)~~

(4) Include a factor ensuring geographic distribution of placements.

~~(6)~~

(5) Ensure that applicants may not discriminate against those who cannot pay for medical services or those who are funded, in part or in whole, by Medicare or Medi-Cal.

(c) Program participants shall be working in, or have a signed agreement with, an eligible practice setting. The program participant shall have full-time status, as defined by the office. The office may establish exemptions to this requirement on a case-by-case basis.

(d) Program participants shall commit to a minimum of three years of service in a geriatric care setting. Leaves of absence shall be permitted for serious illnesses, pregnancy, or other natural causes. The office shall develop the process for determining the maximum permissible length of an absence and the process for reinstatement. Loan repayment shall be deferred until the nurse is back to full-time status.

(e) The office shall develop the process *to reconcile the loan* should a nurse be unable to complete his or her three-year obligation.

(f) The office shall develop a process for outreach to potentially eligible applicants.

(g) The office may adopt any other standards of eligibility, placement, or termination appropriate to achieve the aim of providing competent health care services in geriatrics.

128305.4. (a) The Geriatric Registered Nurses Account is hereby created in the fund.

(b) Funding for the account shall be from fees paid at the time of initial licensure or renewal pursuant to Section 2815.2 of the Business and Professions Code.

(c) Funds placed into the account shall be used by the office to repay the loans of program participants pursuant to agreements made under the program.

(1) Funds paid out for loan repayment may have a funding match from foundation or other private sources.

(2) Loan repayments shall not exceed thirty thousand dollars ($30,000) per program participant.

(3) Loan repayments shall not exceed the amount of the educational loans incurred by the program participant.

(d) Notwithstanding Section 11005 of the Government Code, the office may seek and receive matching funds from foundations and private sources to be placed into the account. The office also may contract with an exempt foundation for the receipt of matching funds to be transferred to the account for use by this program.

128305.5. The terms of loan repayment granted under this article shall be as follows:

(a) After a program participant has completed one year of providing services as a registered nurse in a geriatric setting, the office shall provide up to seven thousand five hundred dollars ($7,500) for loan repayment.

(b) After a program participant has completed two consecutive years of providing services as a registered nurse in a geriatric setting, the office shall provide up to an additional ten thousand dollars ($10,000) of loan repayment, for a total loan repayment of up to seventeen thousand five hundred dollars ($17,500).

(c) After a program participant has completed three consecutive years of providing services as a registered nurse in a geriatric

setting, the office shall provide up to a maximum of an additional twelve thousand five hundred dollars ($12,500) of loan repayment, for a total loan repayment of up to thirty thousand dollars ($30,000).

128305.6. (a) On and after January 1, 2010, applications from registered nurses for program participation may be submitted.

(b) The office may work in conjunction with the Health Professions Education Foundation for the implementation and administration of this program.

(c) The office may promulgate emergency regulations to implement the program.

SEC. 7. Article 6 (commencing with Section 128310) is added to Chapter 4 of Part 3 of Division 107 of the Health and Safety Code, to read:

Article 6. California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008

128310. There is hereby established in the Office of Statewide Health Planning and Development, the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008.

128310.1. It is the intent of this article that the office, in consultation with the board, the medical community, including representatives of ethnic minority groups, schools of social work, health advocates, primary care clinics, public hospitals and health care systems, statewide agencies administering state and federally funded health programs targeting communities of older Californians, and members of the public with health care issue-area expertise, shall develop and implement the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008.

128310.2. For purposes of this article, the following terms have the following meanings:

(a) "Account" means the Geriatric Social Workers and Marriage and Family Therapists Account that is contained within the fund.

(b) "Board" means the Board of Behavioral Sciences.

(c) "Fund" means the Behavioral Sciences Fund.

(d) "Geriatrics" means the practice of ~~medicine~~ *social work or marriage and family therapy*, with training in, and application to,

older adults who are 65 years of age or older or those with disabilities.

(e) "Office" means the Office of Statewide Health Planning and Development.

(f) "Program" means the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008.

128310.3. (a) Program applicants shall be registered associate clinical social workers receiving supervision or shall possess a current valid license to practice social work or marriage and family therapy in this state issued by the board pursuant to Section 4980.30 or 4996.1 of the Business and Professions Code.

(b) The office shall develop the guidelines for selection and placement of applicants. The guidelines shall do all of the following:

(1) Provide priority consideration to applicants who are trained in, and practice, geriatric social work or marriage and family therapy, and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians.

(2) Provide priority consideration to applicants who have recently obtained their license to practice marriage and family therapy or clinical social work or be a registered associate clinical social worker receiving supervision.

(3) Give preference to applicants who have completed an internship in geriatric social work or marriage and family therapy.

(4) Seek to place the most qualified applicants under this section in the areas with the greatest need.

(5) Include a factor ensuring geographic distribution of placements.

(6) Ensure that applicants may not discriminate against those who cannot pay for medical services or those who are funded, in part or in whole, by Medicare or Medi-Cal.

(c) Program participants shall be working in, or have a signed agreement with, an eligible practice setting. The program participant shall have full-time status, as defined by the office. The office may establish exemptions to this requirement on a case-by-case basis.

(d) Program participants shall commit to a minimum of three years of service in a geriatric care setting. Leaves of absence shall be permitted for serious illnesses, pregnancy, or other natural

causes. The office shall develop the process for determining the maximum permissible length of an absence and the process for reinstatement. Loan repayment shall be deferred until the participant is back to full-time status.

(e) The office shall develop the process *to reconcile the loan* should a participant be unable to complete his or her three-year obligation.

(f) The office shall develop a process for outreach to potentially eligible applicants.

(g) The office may adopt any other standards of eligibility, placement, or termination appropriate to achieve the aim of providing competent social services in geriatrics.

128310.4. (a) The Geriatric Social Workers and Marriage and Family Therapists Account is hereby created in the fund.

(b) Funding for the account shall be from fees paid at the time of initial licensure or renewal pursuant to Sections 4984.75 and 4996.66 of the Business and Professions Code.

(c) Funds placed into the account shall be used by the office to repay the loans of program participants pursuant to agreements made under the program.

(1) Funds paid out for loan repayment may have a funding match from foundation or other private sources.

(2) Loan repayments shall not exceed thirty thousand dollars ($30,000) per program participant.

(3) Loan repayments shall not exceed the amount of the educational loans incurred by the program participant.

(d) Notwithstanding Section 11005 of the Government Code, the office may seek and receive matching funds from foundations and private sources to be placed into the account. The office also may contract with an exempt foundation for the receipt of matching funds to be transferred to the account for use by this program.

128310.5. The terms of loan repayment granted under this article shall be as follows:

(a) After a program participant has completed one year of providing services as a licensed marriage and family therapist or a licensed or associate clinical social worker in a geriatric setting, the office shall provide up to seven thousand five hundred dollars ($7,500) for loan repayment.

(b) After a program participant has completed two consecutive years of providing services as a licensed marriage and family

therapist or a licensed or associate clinical social worker in a geriatric setting, the office shall provide up to an additional ten thousand dollars ($10,000) of loan repayment, for a total loan repayment of up to seventeen thousand five hundred dollars ($17,500).

(c) After a program participant has completed three consecutive years of providing services as a licensed marriage and family therapist or a licensed or associate clinical social worker in a geriatric setting, the office shall provide up to a maximum of an additional twelve thousand five hundred dollars ($12,500) of loan repayment, for a total loan repayment of up to thirty thousand dollars ($30,000).

128310.6. (a) On and after January 1, 2010, applications from marriage and family therapists, registered associate social workers, and licensed social workers for program participation may be submitted.

(b) The office may work in conjunction with the Health Professions Education Fund in the implementation and administration of this program.

(c) The office may promulgate emergency regulations to implement the program.

SEC. 8. Section 128552 of the Health and Safety Code is amended to read:

128552. For purposes of this article, the following definitions shall apply:

(a) "Account" means the Medically Underserved Account for Physicians established within the Health Professions Education Fund pursuant to this article.

(b) "Foundation" means the Health Professions Education Foundation.

(c) "Fund" means the Health Professions Education Fund.

(d) "Medi-Cal threshold languages" means primary languages spoken by limited-English-proficient (LEP) population groups meeting a numeric threshold of 3,000, eligible LEP Medi-Cal beneficiaries residing in a county, 1,000 Medi-Cal eligible LEP beneficiaries residing in a single ZIP Code, or 1,500 LEP Medi-Cal beneficiaries residing in two contiguous ZIP Codes.

(e) "Medically underserved area" means an area defined as a health professional shortage area in Part 5 of Subchapter A of Chapter 1 of Title 42 of the Code of Federal Regulations or an

area of the state where unmet priority needs for physicians exist as determined by the California Healthcare Workforce Policy Commission pursuant to Section 128225.

(f) "Medically underserved population" means the Medi-Cal program, Healthy Families Program, and uninsured populations.

(g) "Office" means the Office of Statewide Health Planning and Development (OSHPD).

(h) "Physician Volunteer Program" means the Physician Volunteer Registry Program established by the Medical Board of California.

(i) "Practice setting" means either of the following:

(1) A community clinic as defined in subdivision (a) of Section 1204 and subdivision (c) of Section 1206, a clinic owned or operated by a public hospital and health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fulfill the county's role pursuant to Section 17000 of the Welfare and Institutions Code, which is located in a medically underserved area and at least 50 percent of whose patients are from a medically underserved population.

(2) A medical practice located in a medically underserved area and at least 50 percent of whose patients are from a medically underserved population.

(j) "Primary specialty" means family practice, internal medicine, pediatrics, geriatrics, or obstetrics/gynecology.

(k) "Program" means the Steven M. Thompson Physician Corps Loan Repayment Program.

(l) "Selection committee" means a minimum three-member committee of the board, that includes a member that was appointed by the Medical Board of California.

SEC. 9. Section 128553 of the Health and Safety Code is amended to read:

128553. (a) Program applicants shall possess a current valid license to practice medicine in this state issued pursuant to Section 2050 of the Business and Professions Code.

(b) The foundation, in consultation with those identified in subdivision (b) of Section 123551, shall use guidelines developed by the Medical Board of California for selection and placement of applicants until the office adopts other guidelines by regulation.

(c) The guidelines shall meet all of the following criteria:

(1) Provide priority consideration to applicants that are best suited to meet the cultural and linguistic needs and demands of patients from medically underserved populations and who meet one or more of the following criteria:

(A) Speak a Medi-Cal threshold language.

(B) Come from an economically disadvantaged background.

(C) Have received significant training in cultural and linguistically appropriate service delivery.

(D) Have three years of experience working in medically underserved areas or with medically underserved populations.

(E) Have recently obtained a license to practice medicine.

(2) Include a process for determining the needs for physician services identified by the practice setting and for ensuring that the practice setting meets the definition specified in subdivision (h) of Section 128552.

(3) Give preference to applicants who have completed a three-year residency in a primary specialty.

(4) Seek to place the most qualified applicants under this section in the areas with the greatest need.

(5) Include a factor ensuring geographic distribution of placements.

(d) (1) The foundation may appoint a selection committee that provides policy direction and guidance over the program and that complies with the requirements of subdivision (*l*) of Section 128552.

(2) The selection committee may fill up to 20 percent of the available positions with program applicants from specialties outside of the primary care specialties.

(3) The selection committee shall fill 15 percent of the available positions with program applicants that agree to practice in a geriatric care setting. Priority consideration shall be given to applicants who are trained in, and practice, geriatrics, and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians.

(e) Program participants shall meet all of the following requirements:

(1) Shall be working in or have a signed agreement with an eligible practice setting.

(2) Shall have full-time status at the practice setting. Full-time status shall be defined by the board and the selection committee

may establish exemptions from this requirement on a case-by-case basis.

(3) Shall commit to a minimum of three years of service in a medically underserved area. Leaves of absence shall be permitted for serious illness, pregnancy, or other natural causes. The selection committee shall develop the process for determining the maximum permissible length of an absence and the process for reinstatement. Loan repayment shall be deferred until the physician is back to full-time status.

(f) The office shall adopt a process ~~that applies if a physician is~~ *to reconcile the loan should a physician be* unable to complete his or her three-year obligation.

(g) The foundation, in consultation with those identified in subdivision (b) of Section 128551, shall develop a process for outreach to potentially eligible applicants.

(h) The foundation may recommend to the office any other standards of eligibility, placement, and termination appropriate to achieve the aim of providing competent health care services in approved practice settings.

SEC. 10. Chapter 6 (commencing with Section 128559) is added to Part 3 of Division 107 of the Health and Safety Code, to read:

CHAPTER 6. CALIFORNIA GERIATRIC AND GERONTOLOGY STUDENT LOAN ASSISTANCE PROGRAM OF 2008

128559. This chapter shall be known and may be cited as the California Geriatric and Gerontology Student Loan Assistance Program of 2008.

128559.1. It is the intent of this chapter that the Office of Statewide Health Planning and Development, in consultation with the Medical Board of California, state allied health professional and behavioral sciences licensing boards, postsecondary schools of health sciences and social work, health advocates representing diverse ethnic communities, primary care clinics, public hospitals and health care systems, statewide agencies administering state and federally funded programs targeting treatment and services for older adults, and members of the public with health care issue-area expertise, shall develop and implement the program.

128559.2. (a) There is hereby established in the Office of Statewide Health Planning and Development, the California Geriatric and Gerontology Student Loan Assistance Program of 2008.

(b) The Office of Statewide Health Planning and Development shall operate the program in accordance with, but not limited to, the following:

(1) Increased efforts in educating students trained in geriatrics and gerontology of the need for health care and social work professionals to meet the demands of the exponential increase in the older adult population, and of programs that are available that provide incentives, financial and otherwise, to practice in settings and areas in need.

(2) Strategic collaboration with California postsecondary schools of health sciences and social work to better prepare health care professionals and social workers to meet the distinctive cultural and medical needs of California's older adult populations.

(3) Establish, encourage, and expand programs for students of the health care and social work professions for mentoring at primary and secondary schools, and college levels to increase the number of students entering the studies of health professions and social work with a concentration in geriatrics or gerontology.

(4) Administer financial or other incentives to encourage new or experienced health care professionals and social workers to practice in the fields of geriatrics and gerontology.

128559.3. For purposes of this chapter:

(a) "Office" means the Office of Statewide Health Planning and Development.

(b) "Program" means the California Geriatric and Gerontology Student Loan Assistance Program of 2008.

128559.4. (a) The office shall administer the program. Any individual enrolled in an institution of postsecondary education participating in the programs set forth in this chapter may be eligible to receive a conditional warrant for loan repayment, to be redeemed upon becoming employed as a licensed health professional, marriage and family therapist, or social worker or registered associate social worker in a setting serving primarily older adult populations. In order to be eligible to receive a conditional loan repayment warrant, an applicant shall satisfy all of the following conditions:

(1) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(2) In order to meet the costs associated with obtaining a health professional or social work degree, the applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (10 U.S.C. Sec. 1071 et seq.).

(B) Any loan program approved by the Student Aid Commission.

(3) The applicant has agreed to provide services as a licensed health professional, marriage and family therapist, or social worker, or to be registered as an associate clinical social worker with satisfactory progress toward licensure, for up to three consecutive years, after obtaining a license or associate registration from the applicable state health professional or behavioral ~~science~~ *sciences* licensing board, in a setting providing health or social services primarily to older adults.

(4) The applicant has agreed that he or she shall not discriminate against any patient or client who cannot pay for services or those who are funded, in part or in whole, by Medicare or Medi-Cal.

(b) The office shall ensure that priority consideration be given to applicants who are best suited to meet the cultural and linguistic needs and demands of geriatric populations and who meet one or more of the following criteria:

(1) Have received significant training in cultural and linguistically appropriate service delivery.

(2) Have done a clinical rotation or social work internship, of at least two semesters, serving older adult populations.

(c) A person participating in the program pursuant to this chapter shall not receive more than one warrant.

(d) The office shall adopt rules and regulations regarding the reallocation of warrants if a participating institution is unable to

utilize its allocated warrants or is unable to distribute them within a reasonable time period.

128559.5. (a) The office shall develop the process to redeem an applicant's warrant and commence loan repayment.

(b) The office shall distribute student applications to participate in the program to postsecondary institutions eligible to participate in the state and federal financial aid programs and that have a program of professional preparation for health care professionals, social workers, or marriage and family therapists.

(c) Each participating institution shall sign an institutional agreement with the office, certifying its intent to administer the program according to all applicable published rules, regulations, and guidelines, and shall make special efforts to notify students regarding the availability of the program particularly to economically disadvantaged students.

(d) To the extent feasible, the office and each participating institution shall coordinate this program with other existing programs designed to recruit or encourage students to enter the health care, social work, or marriage and family therapy profession. These programs shall include, but not be limited to, the following:

(1) The Song-Brown Family Physician Training Act (Article 1 (commencing with Section 128200) of Chapter 4).

(2) The Health Education and Academic Loan Act (Article 2 (commencing with Section 128250) of Chapter 4).

(3) The National Health Service Corps.

128559.6. (a) The office shall administer the program and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but not be limited to, provisions regarding the period of time for which a warrant shall remain valid, the reallocation of warrants that are not utilized, and the development of projections for funding purposes.

(b) The office shall work in conjunction with lenders participating in federal or similar loan programs to develop a streamlined application process for participation in the program.

128559.7. (a) The office shall establish a fund to utilize for the purposes of this chapter.

(b) The office may seek matching funds from foundations and private sources. The office may also contract with an exempt foundation for the receipt of matching funds to be transferred to the fund for use by this program.

(c) The provisions of this chapter shall not become operative unless appropriate funding, as determined by the office, is made available.

128559.8. (a) On or before January 31 of each year, the office shall provide an annual report to the Legislature regarding the program that includes all of the following:

(1) The number of program participants by profession.

(2) Practice locations.

(3) The amount expended for the program.

(4) Information on annual performance reviews by the practice setting and program participants.

(5) An evaluation of the program's effectiveness in improving access to health and social services for older adults.

(6) Recommendations for maintaining or expanding the program.

(b) This section shall become operative on January 1, 2010.

SEC. 11. Sections 8 and 9 of this act shall become operative only if Assembly Bill 2439 of the 2007–08 Regular Session is enacted and becomes effective on or before January 1, 2009.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2649
Author: Ma
Bill Date: March 24, 2008, amended
Subject: Medical Assistants: authorized services
Sponsor: Author

STATUS OF BILL:

This bill is currently in the Assembly Business and Professions Committee and has been set for hearing on April 29, 2008.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would specify that the provisions that allow a medical assistant to perform services relating to the administration of medication and performance of skin tests and simple routine medical tasks under the supervision of a physician do not authorize a medical assistant to trim the nails of, or debride in an manner using a scalpel, paring instrument, or other object the corns, bunions, or callus of, a patient who is diabetic or suffers from any form of circulatory disorder affecting the extremities.

ANALYSIS:

Current law authorizes a medical assistant to perform specified services relating to administration of medication and performance of skin tests and simple routine tasks and procedures under the supervision of a physician. Regulations allow medical assistants to cut the nails of an otherwise health person (Code of regulations Section 1366(b)(12)).

This bill would specify that these provisions do not authorize a medical assistant to trim the nails of, or debride in any manner using a scalpel, paring instrument, or other object the corns, bunions, or callus of, a patient who is diabetic or suffers from any form of circulatory disorder affecting the extremities.

This appears to clarify existing laws and regulations, although it may be unnecessary.

FISCAL: None

POSITION: Recommendation: Neutral

April 18, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 2649

Introduced by Assembly Member ~~Carter~~ *Ma*

February 22, 2008

~~An act to amend Section 100 of the Business and Professions Code, relating to business.~~ *An act to amend Section 2069 of the Business and Professions Code, relating to healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2649, as amended, ~~Carter~~ *Ma.* ~~Department of Consumer Affairs.~~ *Medical assistants: authorized services.*

Existing law authorizes a medical assistant to perform specified services relating to administration of medication and performance of skin tests and simple routine medical tasks and procedures upon specific authorization from and under the supervision of a licensed physician and surgeon or podiatrist, or a physician and surgeon or podiatrist group or corporation.

This bill would specify that these provisions do not authorize a medical assistant to trim the nails of, or debride in any manner using a scalpel, paring instrument, or other object the corns, bunions, or callus of, any patient who is diabetic or suffers from any form of circulatory disorder affecting the extremities.

~~Existing law creates the Department of Consumer Affairs in the State and Consumer Services Agency.~~

~~This bill would make a nonsubstantive change to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2069 of the Business and Professions Code is amended to read:

2069. (a) (1) Notwithstanding any other provision of law, a medical assistant may administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and additional technical supportive services upon the specific authorization and supervision of a licensed physician and surgeon or a licensed podiatrist. A medical assistant may also perform all these tasks and services in a clinic licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code upon the specific authorization of a physician assistant, a nurse practitioner, or a nurse-midwife.

(2) The supervising physician and surgeon at a clinic described in paragraph (1) may, at his or her discretion, in consultation with the nurse practitioner, nurse-midwife, or physician assistant provide written instructions to be followed by a medical assistant in the performance of tasks or supportive services. These written instructions may provide that the supervisory function for the medical assistant for these tasks or supportive services may be delegated to the nurse practitioner, nurse-midwife, or physician assistant within the standardized procedures or protocol, and that tasks may be performed when the supervising physician and surgeon is not onsite, so long as the following apply:

(A) The nurse practitioner or nurse-midwife is functioning pursuant to standardized procedures, as defined by Section 2725, or protocol. The standardized procedures or protocol shall be developed and approved by the supervising physician and surgeon, the nurse practitioner or nurse-midwife, and the facility administrator or his or her designee.

(B) The physician assistant is functioning pursuant to regulated services defined in Section 3502 and is approved to do so by the supervising physician or surgeon.

(b) As used in this section and Sections 2070 and 2071, the following definitions shall apply:

(1) "Medical assistant" means a person who may be unlicensed, who performs basic administrative, clerical, and technical supportive services in compliance with this section and Section 2070 for a licensed physician and surgeon or a licensed podiatrist,

or group thereof, for a medical or podiatry corporation, for a physician assistant, a nurse practitioner, or a nurse-midwife as provided in subdivision (a), or for a health care service plan, who is at least 18 years of age, and who has had at least the minimum amount of hours of appropriate training pursuant to standards established by the Division of Licensing. The medical assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the required training. A copy of the certificate shall be retained as a record by each employer of the medical assistant.

(2) "Specific authorization" means a specific written order prepared by the supervising physician and surgeon or the supervising podiatrist, or the physician assistant, the nurse practitioner, or the nurse-midwife as provided in subdivision (a), authorizing the procedures to be performed on a patient, which shall be placed in the patient's medical record, or a standing order prepared by the supervising physician and surgeon or the supervising podiatrist, or the physician assistant, the nurse practitioner, or the nurse-midwife as provided in subdivision (a), authorizing the procedures to be performed, the duration of which shall be consistent with accepted medical practice. A notation of the standing order shall be placed on the patient's medical record.

(3) "Supervision" means the supervision of procedures authorized by this section by the following practitioners, within the scope of their respective practices, who shall be physically present in the treatment facility during the performance of those procedures:

(A) A licensed physician and surgeon.

(B) A licensed podiatrist.

(C) A physician assistant, nurse practitioner, or nurse-midwife as provided in subdivision (a).

(4) "Technical supportive services" means simple routine medical tasks and procedures that may be safely performed by a medical assistant who has limited training and who functions under the supervision of a licensed physician and surgeon or a licensed podiatrist, or a physician assistant, a nurse practitioner, or a nurse-midwife as provided in subdivision (a).

(c) Nothing in this section shall be construed as authorizing the licensure of medical assistants. Nothing in this section shall be construed as authorizing the administration of local anesthetic

agents by a medical assistant. Nothing in this section shall be construed as authorizing the division to adopt any regulations that violate the prohibitions on diagnosis or treatment in Section 2052.

(d) Notwithstanding any other provision of law, a medical assistant may not be employed for inpatient care in a licensed general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(e) Nothing in this section shall be construed as authorizing a medical assistant to perform any clinical laboratory test or examination for which he or she is not authorized by Chapter 3 (commencing with Section 1206.5). Nothing in this section shall be construed as authorizing a nurse practitioner, nurse-midwife, or physician assistant to be a laboratory director of a clinical laboratory, as those terms are defined in paragraph (7) of subdivision (a) of Section 1206 and subdivision (a) of Section 1209.

(f) Nothing in this section shall be construed as authorizing a medical assistant to trim the nails of, or debride in any manner using a scalpel, paring instrument, or other object the corns, bunions, or callus of, any patient who is diabetic or suffers from any form of circulatory disorder affecting the extremities.

~~SECTION 1. Section 100 of the Business and Professions Code is amended to read:~~

~~100. There is in the state government, within the State and Consumer Services Agency, a Department of Consumer Affairs.~~

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2734
Author: Krekorian
Bill Date: April 17, 2008, amended
Subject: Advertisements: license # and MBC website
Sponsor: Author

STATUS OF BILL:

This bill is currently in the Assembly Appropriations Committee and has been set for hearing on April 23, 2008.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would require on July 1, 2009, business cards of physicians to include the licensing agency and a valid license # or ficticious name permit (FNP) #. It would prohibit, effective July 1, 2009, a physician from advertising unless that advertising contains the physician's name, a valid license number, and the FNP #. All required information must appear in close proximity to the physician's name. This bill would also require, commencing July 1, 2009, any advertising by physicians to contain the licensing agency, the physician's valid license number, and the current Website for the licensing agency.

ANALYSIS:

Current law imposes limitations on advertising by health care practitioners. The author of this bill believes that, in the interests of public protection, consumers need the ability to verify that healthcare practitioners are properly licensed and in good standing with their respective licensing authorities.

This bill would require all business cards for physicians to contain the physician's licensing agency immediately followed by the valid license number. The business cards must also contain the FNP #, if applicable.

This bill would require all advertisements and promotional material disseminated by a licensed physician to include the physician's name immediately followed by a valid license number for that physician, the current Website for the Board, and, in the case of an entity other than an individual, the fictitious name permit. This bill also prohibits the willful and intentional use of a license number that is not current and valid, and makes a violation of this is punishable by a fine for the first occurrence up to one thousand dollars

($1,000) and for a second offense up to ten thousand dollars ($10,000), imprisonment for up to one year, or both. This bill also states that an intentional violation constitutes unprofessional conduct and grounds for suspension or revocation of the physician's license.

FISCAL: None

POSITION: Recommendation: Support

April 18, 2008

AMENDED IN ASSEMBLY APRIL 17, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 2734

Introduced by Assembly Member Krekorian

February 22, 2008

An act to add Section 605 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2734, as amended, Krekorian. Health care practitioners: *business cards and* advertisements.

Existing law provides for the licensure and regulation of the practice of medicine by the Medical Board of California and provides for the licensure and regulation of the practice of dentistry by the Dental Board of California. Existing law imposes certain limitations on advertising by health care practitioners.

This bill would ~~require a public communication, as defined, by~~, *commencing July 1, 2009, require a business card or professional card disseminated by or caused to be disseminated by a licensed physician and surgeon, dentist, chiropractor, or osteopath, or a person required to be licensed as such, in connection with the practice of medicine, dentistry, chiropractic, or osteopathy to include a valid license number or a fictitious name permit number. The bill would also, commencing July 1, 2009, prohibit* a licensed physician and surgeon, dentist, chiropractor, or osteopath, or a person required to be licensed as such, ~~to include a valid license number, contact information for the appropriate licensing agency, a notice to contact the agency for further licensing details, and, in the case of an entity other than an individual, the fictitious name permit number, as specified~~ *from disseminating or causing to be*

disseminated an advertisement or promotional material that does not contain specified information, except that this prohibition would not apply until January 1, 2010, to any advertising or promotional material that is published annually and prior to July 1, 2009. The bill would also, *commencing January 1, 2009,* prohibit the willful and intentional use of a license number that is not the person's current, valid license number. The bill would make a violation of these provisions ~~a crime,~~ punishable as specified, *and would make specified violations a crime. The bill would also make an intentional violation unprofessional conduct and grounds for suspension or revocation of a license, as specified.*

Because this bill would create new crimes, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 605 is added to the Business and Professions Code, to read:

605. (a) ~~No~~ *On and after July 1, 2009, no* person licensed or required to be licensed pursuant to Chapter 4 (commencing with Section 1600) or Chapter 5 (commencing with Section 2000) or under any initiative act referred to in this division shall disseminate, or cause to be disseminated, any ~~form of public communication for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products~~ *business card or professional card in connection with the professional practice or business for which a license is required pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), or an initiative act referred to in this division, unless the card contains the applicable state licensing agency immediately followed by the valid license number issued to that person in the following form:*

"(insert state agency) License number: (insert valid license number)"

The following abbreviations may be used: "CA" or "Calif." may be substituted for "State," "Med." may be substituted for "Medical," "Dent." may be substituted for "Dental," "Bd." may be substituted for "Board," "Bur." may be substituted for "Bureau," "Lic." may be substituted for "License" and "No." or "#" may be substituted for "number."

A business card or professional card on behalf of, in whole or part, a person practicing under a fictitious business name shall include the fictitious name permit number issued by the applicable state licensing agency.

(b) On and after July 1, 2009, no person licensed or required to be licensed pursuant to Chapter 4 (commencing with Section 1600) or Chapter 5 (commencing with Section 2000) or under any initiative act referred to in this division shall disseminate, or cause to be disseminated, any form of advertisement or promotional material in connection with the professional practice or business for which a license is required pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), or an initiative act referred to in this division, unless that dissemination *clearly and conspicuously* contains all of the following information:

~~(1) A valid license number issued by the applicable licensing authority for the person offering the services or products, the Web site and telephone number of the licensing authority, and a notice to contact that agency for further licensing information.~~

~~(2) If the dissemination is on behalf of, in whole or part, any person other than an individual, the dissemination shall also include the person's fictitious name permit number.~~

(1) The name of the person or the fictitious business name of the person as approved by the licensing authority.

(2) (A) If the dissemination is oral and contains no written or visual component, the applicable state licensing agency immediately followed by the valid license number issued to that person.

(B) For all other forms of dissemination, the applicable state licensing agency immediately followed by both the valid license number issued to that person and the current valid Internet Web site of the applicable state licensing agency, all of which shall appear in close proximity to the name of the person and in the following form:

"(Name of state agency) License number: ____" "www.____"
The following abbreviations may be used: "CA" or "Calif." may be substituted for "State," or for "California," "Med." may be substituted for "Medical," "Dent." may be substituted for "Dental," "Bd." may be substituted for "Board," "Bur." may be substituted for "Bureau," "Lic." may be substituted for "License" and "No." or "#" may be substituted for "number."
(3) An advertisement or promotional material on behalf of, in whole or part, a person practicing under a fictitious business name shall include the fictitious name permit number issued by the applicable state licensing agency.
this subdivision shall not apply until January 1, 2010, to any advertisement or promotional material that is published annually and prior to July 1, 2009.
~~(b)~~
(c) For purposes of this section, the following terms have the following meanings:
(1) "Person" means any individual, partnership, corporation, limited liability company, or other organization, or any combination thereof.
(2) ~~A "public communication"~~ *An "advertisement" or "promotional material"* includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, ~~business card, list or directory of healing arts practitioners~~ *directory*, Internet, or other electronic communication. *It does not include a directory listing that contains no additional information other than the licensee's name, address, and telephone number.*
~~(c) A violation of this section constitutes a misdemeanor and is punishable by imprisonment in the county jail for not more than six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both that fine and imprisonment.~~
(d) (1) A violation of this section by a licensed person described in subdivision (a) or (b) is punishable by a fine not exceeding one thousand dollars ($1,000). A second or subsequent violation of this section by a licensed person described in subdivision (a) or (b) is a misdemeanor punishable by a fine not exceeding ten thousand dollars ($10,000).
(2) A violation of this section by a person described in subdivision (a) or (b) who has no license, or who has a license

that is suspended or revoked, is a misdemeanor offense, punishable by imprisonment in the county jail for not more than six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both that fine and imprisonment.

~~(d)~~

(e) Any person described in subdivision (a) *or (b)* who willfully and intentionally uses a license number that does not correspond to the number on a currently valid license held by that person, is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. The penalty provided by this section is cumulative to the penalties available under all other laws.

~~(e) A~~

(f) An intentional violation of this section in the case of a licensed person described in subdivision (a) *or (b)* constitutes unprofessional conduct and grounds for suspension or revocation of his or her license by the board by whom he or she is licensed, or if a license has been issued in connection with a place of business, then for the suspension or revocation of the place of business in connection with which the violation occurs. The proceedings for suspension or revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and each board shall have all the powers granted therein.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2747
Author: Berg
Bill Date: April 7, 2008, amended
Subject: End-of-Life Care
Sponsor: Author

STATUS OF BILL:

This bill is currently in the Assembly Judiciary Committee and has been set for hearing on April 29, 2008.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would require that when an attending physician makes a diagnosis that a patient has a terminal illness the physician must provide the patient an opportunity to receive information and counseling regarding all legal end-of-life care options if the patient requests the information.

ANALYSIS:

Information and counseling regarding end-of-life care options are essential for many terminally ill patients and their families. Patients need to know how to weigh all of their options and make informed decisions. It gives the physician an opportunity to discuss the benefits and disadvantages of all available treatments and it can facilitate earlier access to hospice care.

AB 2747 requires attending physicians who diagnose a patient as terminally ill to provide the patient an opportunity to receive information and counseling regarding end-of-life care. It appears this "opportunity" applies if the patient requests the information. If physicians do not wish to comply with the patient's choice of end-of-life options, they must refer the patients to another health care provider or provide them with information on procedures to transfer to another provider.

The current language of the bill does not address from where the physicians obtain the information on end-of-life care options, although it does state this information need not be in writing.

FISCAL: None

POSITION: Recommendation: Neutral if amended to clarify what materials or information should be provided.

April 18, 2008

AMENDED IN ASSEMBLY APRIL 7, 2008

AMENDED IN ASSEMBLY MARCH 25, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 2747

Introduced by Assembly Members Berg and Levine

February 22, 2008

An act to add Part 1.8 (commencing with Section 442) to Division 1 of the Health and Safety Code, relating to end-of-life care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2747, as amended, Berg. End-of-life care.

Existing law provides for the licensure and regulation of health facilities and hospices by the State Department of Public Health. Existing law provides for the regulation and licensing of physicians and surgeons by the Medical Board of California.

This bill would provide that when an attending physician makes a diagnosis that a patient has a terminal illness or makes a prognosis that a patient has less than one year to live, the health care provider shall provide the patient with the opportunity to receive information and counseling regarding legal end-of-life options, as specified, and provide for the referral or transfer of a patient if the patient's physician does not wish to comply with the patient's choice of end-of-life options.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Palliative and hospice care are invaluable resources for terminally ill Californians in need of comfort and support at the end of life.

(b) Palliative care and conventional medical treatment should be thoroughly integrated rather than viewed as separate entities.

(c) Even though Californians with a prognosis of six months or less to live are eligible for hospice care, nearly two-thirds of them receive hospice services for less than one month.

(d) Many patients benefit from being referred to hospice care earlier, where they receive better pain and symptom management and have an improved quality of life.

(e) Significant information gaps may exist between health care providers and their patients on end-of-life care options potentially leading to delays to, or lack of, referrals to hospice care for terminally ill patients. The sharing of important information regarding specific treatment options in a timely manner by health care providers is a key component of quality end-of-life care. Information that is helpful to patients and their families includes, but is not limited to, the availability of hospice care, the efficacy and potential side effects of continued curative treatment, and withholding or withdrawal of life sustaining treatments.

(f) Terminally ill and dying patients rely on their health care providers to give them timely and informative data. Research shows a lack of communication between health care providers and their terminally ill patients can cause problems, including poor availability of, and lack of clarity regarding, advanced health care directives and patients' end-of-life care preferences. This lack of information and poor adherence to patient choices ~~results~~ *result* in "bad deaths" that cause needless physical and psychological suffering to patients and their families.

(g) Those problems are complicated by social issues, such as cultural and religious pressures for the providers, patients, and their family members. A recent survey found that providers that object to certain practices are less likely than others to believe they have an obligation to present all of the options to patients and refer patients to other providers, if necessary.

(h) Every medical school in California is required to include end-of-life care issues in its curriculum and every physician in California is required to complete continuing education courses in end-of-life care.

(i) Palliative care is not a one-size-fits-all approach. Patients have a range of diseases and respond differently to treatment options. A key benefit of palliative care is that it customizes treatment to meet the needs of each individual person.

(j) Informed patient choices will help terminally ill patients and their families cope with one of life's most challenging situations.

SEC. 2. Part 1.8 (commencing with Section 442) is added to Division 1 of the Health and Safety Code, to read:

PART 1.8. END-OF-LIFE CARE

442. For the purposes of this part, the following definitions shall apply:

(a) "Curative treatment" means treatment intended to cure or alleviate symptoms of a given disease or condition.

(b) "Hospice" means a specialized form of interdisciplinary health care that is designed to provide palliative care, alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of life due to the existence of a terminal disease, and provide supportive care to the primary caregiver and the family of the hospice patient, and that meets all of the criteria specified in subdivision (b) of Section 1746.

(c) "Palliative care" means medical treatment, interdisciplinary care, or consultation provided to a patient or family members, or both, that has as its primary purpose the prevention of, or relief from, suffering and the enhancement of the quality of life, rather than treatment aimed at investigation and intervention for the purpose of cure or prolongation of life as described in subdivision (b) of Section 1339.31.

(d) "Palliative sedation" means the use of sedative medications to relieve extreme suffering by making the patient unaware and unconscious, while artificial food and hydration are withheld, during the progression of the disease leading to the death of the patient.

(e) "Refusal or withdrawal of life sustaining treatment" means forgoing treatment or medical procedures that replace or support an essential bodily function, including, but not limited to, cardiopulmonary resuscitation, mechanical ventilation, artificial nutrition and hydration, dialysis, and any other treatment or discontinuing any or all of those treatments after they have been used for a reasonable time.

(f) "Voluntary stopping of eating and drinking" or "VSED" means the voluntary refusal of a patient to eat and drink in order to alleviate his or her suffering, and includes the withholding or withdrawal of life-sustaining treatment at the request of the patient.

442.5. When an attending physician makes a diagnosis that a patient has a terminal illness or makes a prognosis that a patient has less than one year to live, the physician~~, or in the case of a patient in a health facility, as defined in Section 1250, the health facility,~~ shall provide the patient with the opportunity to receive comprehensive information and counseling regarding legal end-of-life care options. *When a patient is in a health facility, as defined in Section 1250, the attending physician or medical director may refer the patient to a hospice provider or private or public agencies and community-based organizations that specialize in end-of-life care case management and consultation to receive information and counseling regarding legal end-of-life care options.*

(a) If the patient indicates a desire to receive the information and counseling, the information shall include, but not be limited to, the following:

(1) Hospice care at home or in a health care setting.

(2) A prognosis with and without the continuation of curative treatment.

(3) The patient's right to refusal *of* or withdrawal from life-sustaining treatment.

(4) The patient's right to continue to pursue curative treatment while receiving palliative care.

(5) The patient's right to comprehensive pain and symptom management at the end of life, including, but not limited to, adequate pain medication, treatment of nausea, palliative chemotherapy, relief of shortness of breath and fatigue, VSED, and palliative sedation.

(b) The information described in subdivision (a) may, but is not required to be, in writing.

(c) Counseling may include, but not be limited to, discussions about the outcomes on the patient and his or her family, based on the interest of the patient.

442.7. If a physician does not wish to comply with his or her patient's choice of end-of-life options, the health care provider shall do both of the following:

(a) Refer or transfer a patient to an alternative health care provider.

(b) Provide the patient with information on procedures to transfer to an alternative health care provider.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2841
Author: Ma
Bill Date: February 22, 2008, introduced
Subject: Medical Procedures: reusable adipose cannula
Sponsor: Author

STATUS OF BILL:

This bill is currently in the Assembly Business and Professions Committee and has been set for hearing on April 29, 2008.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would require that patients be notified through written disclosure prior to any medical procedure in which a reusable adipose cannula is to be used for the second time, and for each use thereafter. Patient signature is required on the disclosure form and must be maintained in the patients' medical record.

ANALYSIS:

Current law requires specified disclosures to patients undergoing procedures involving collagen injections and silicone implants under the Medical Practice Act. Additionally, the Medical Board is required to adopt extraction and postoperative care standards in regard to body liposuction procedures performed by a physician when performed outside of a general acute care hospital.

According to the author, a large number of the adipose cannulas that are used in procedures are reusable. Although they are regulated by the United States Food and Drug Administration, there are no regulations or laws regarding the number of times that a reusable cannula may be used, number of patients that a reusable cannula can be used on, or the number of years that as adipose cannula can be used before it needs to be discarded.

As it is currently written, the bill does not identify a significant problem related to the use of reusable adipose cannulas relative to any other piece of surgical equipment that would warrant these disclosures. The California Society of Plastic Surgeons notes that the majority of all surgical instruments used during a procedure are used again and again. Sterilization procedures, when correctly followed, can prevent all risk of infection.

This bill would require the disclosure of a common practice that may cause more concern or confusion for patients, rather than providing better consumer protection. In addition, the disclosure must include the number of times the cannula has been used on other patients, the length of time the cannula has been in use, and how it has been sterilized. Much of this date is not currently maintained by the physician. The disclosure must contain information on alternatives to the disposable instrument.

The bill only applies to physician use of this instrument.

FISCAL: Minor and absorbable.

POSITION: Recommendation: Oppose

April 18, 2008

ASSEMBLY BILL No. 2841

Introduced by Assembly Member Ma

February 22, 2008

An act to add Section 2259.9 to the Business and Professions Code, relating to medical procedures.

LEGISLATIVE COUNSEL'S DIGEST

AB 2841, as introduced, Ma. Medical procedures: reusable adipose cannula.

Existing law, the Medical Practice Act, establishes the Medical Board of California under the Department of Consumer Affairs, which licenses physicians and surgeons and regulates their practice. Existing law requires specified disclosures to patients undergoing procedures involving collagen injections, defined as any substance derived from, or combined with, animal protein. Existing law also requires the board to adopt extraction and postoperative care standards in regard to body liposuction procedures performed by a physician and surgeon outside of a general acute care hospital. Existing law makes a violation of these provisions a misdemeanor.

This bill would enact the Reusable Adipose Cannula Full Disclosure Act, which would require a physician and surgeon to provide specified written disclosures to a patient prior to that patient undergoing any adipose medical procedure, as defined, for which a reusable adipose cannula, as defined, is to be used. The bill would define adipose as tissue made up of fat cells located beneath the skin, and adipose cannula, generally, as the device used to remove adipose from, or inject adipose into, a patient. The bill would also provide that a violation of these provisions would not constitute a crime.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Reusable Adipose Cannula Full Disclosure Act.

SEC. 2. Section 2259.9 is added to the Business and Professions Code, to read:

2259.9. (a) Prior to any adipose medical procedure in which a reusable adipose cannula is to be used, the physician and surgeon performing the procedure or a member of his or her staff shall, in writing, disclose to the patient or legal guardian of a minor patient all of the following:

(1) The reusable adipose cannula has been used on other patients to perform an adipose medical procedure.

(2) The number of patients for which the reusable adipose cannula has been used to perform adipose medical procedures.

(3) The length of time that the reusable adipose cannula has been in use by the physician and surgeon.

(4) The process by which the reusable adipose cannula has been cleaned, sterilized, and stored after each adipose medical procedure.

(5) That an alternative to reusable adipose cannulas may be available for the adipose medical procedure in the form of disposable adipose cannulas.

(b) The disclosure required in subdivision (a) shall be signed by the patient or the legal guardian of a minor patient prior to the adipose medical procedure being performed. The signed disclosure shall be maintained in the patient's medical records file.

(c) The disclosure described in subdivision (a) shall not be required if the reusable adipose cannula is being used for the first time.

(d) Section 2314 shall not apply to this section.

(e) For purposes of this section:

(1) "Adipose" means tissue made up of fat cells located beneath the skin.

(2) "Adipose cannula" means any device that is inserted into the body of a patient for the removal of adipose from, or for the injection of adipose into, the body of that patient.

(3) "Adipose medical procedure" means any procedure to remove adipose from the body of a patient or to inject a patient's own adipose into the body of that patient.

(4) "Disposable adipose cannula" means an adipose cannula that is used on a patient during an adipose medical procedure followed by disposal of that cannula. A disposable adipose cannula is not used on more than one patient.

(5) "Patient" means a natural person.

(6) "Reusable adipose cannula" means an adipose cannula that is used on multiple patients, followed by cleaning, sterilization, and storage after each adipose medical procedure.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2968
Author: Carter
Bill Date: February 22, 2008, introduced
Subject: Cosmetic Surgery: physical examination
Sponsor: Author

STATUS OF BILL:

This bill is currently in the Assembly Health Committee and has been set for hearing on April 29, 2008.

DESCRIPTION OF CURRENT LEGISLATION:

This bill enacts the Donda West Law, which would prohibit elective cosmetic surgery on a patient unless, prior to surgery, the patient has completed a physical examination by, and has received written clearance for the procedure from, a physician.

ANALYSIS:

According to the author, better consumer protections are needed regarding unnecessary bodily trauma that could result from elective cosmetic surgery for patients who are not physically fit to undergo these procedures. This bill comes from the author's "It Ought to Be a Law" contest. Many plastic surgeons require their patients to have a medical clearance before they will perform elective cosmetic surgery, however, it is not a requirement in law. This bill would address those health care providers who may not require the physical examination clearance.

This bill would, through enactment of the Donda West Law, prohibit elective cosmetic surgery on a patient unless the patient has completed a physical examination by a licensed physician and has received written clearance for the procedure prior to surgery.

The bill states that only a physician is authorized to complete the physical examination that would be required in law for a patient seeking elective cosmetic surgery. Current law allows physician assistants and nurse practitioners to complete physical examinations and they should be included in this bill as authorized to complete physicals for patients seeking cosmetic procedures.

The requirement for a physical already exists in law, but it is not applied in many cases especially in medi-spas. This will clarify that a prior examination is necessary prior to elective cosmetic surgery.

Since Dentists with a special permit are now authorized to perform facial cosmetic surgery, are they qualified and should they be authorized to perform a physical examination?

FISCAL: None

POSITION: Recommendation: Support if amended to allow all healthcare practitioners who are authorized to perform physical examinations to be able to complete physical examinations for patients seeking elective cosmetic surgery.

April 18, 2008

ASSEMBLY BILL No. 2968

Introduced by Assembly Member Carter

February 22, 2008

An act to add Section 2259.8 to the Business and Professions Code, relating to cosmetic surgery.

LEGISLATIVE COUNSEL'S DIGEST

AB 2968, as introduced, Carter. Cosmetic surgery.

Existing law, the Medical Practice Act, establishes the Medical Board of California under the Department of Consumer Affairs, which licenses physicians and surgeons and regulates their practice.

Existing law, the Medical Practice Act, requires specified disclosures to patients undergoing procedures involving collagen injections, defined as any substance derived from, or combined with, animal protein. Existing law also requires the board to adopt extraction and postoperative care standards in regard to body liposuction procedures performed by a physician and surgeon outside of a general acute care hospital. Existing law makes a violation of these provisions a misdemeanor.

This bill would enact the Donda West Law, which would prohibit the performance of an elective cosmetic surgery procedure on a patient unless, prior to surgery, the patient has completed a physical examination by, and has received written clearance for the procedure from, a licensed physician and surgeon. The bill would also provide that a violation of these provisions would not constitute a crime.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Donda West Law.

SEC. 2. Section 2259.8 is added to the Business and Professions Code, to read:

2259.8. (a) Notwithstanding any other provision of law, a cosmetic surgery procedure may not be performed on a patient unless, prior to surgery, the patient has completed a physical examination by, and has received written clearance for the procedure from, a licensed physician and surgeon.

(b) "Cosmetic surgery" means an elective surgery that is performed to alter or reshape normal structures of the body in order to improve the patient's appearance, including, but not limited to, liposuction and elective facial cosmetic surgery.

(c) Section 2314 shall not apply to this section.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2969
Author: Lieber
Bill Date: February 22, 2008, introduced
Subject: Workers' Comp.: medical treatment utilization reviews
Sponsor: Author

STATUS OF BILL:

This bill is currently on the Assembly Floor.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would require a physician who is conducting utilization review to be licensed in California.

ANALYSIS:

Current law does not require physicians who perform utilization reviews of workers' compensation claims to be licenses in California as long as the physicians are licensed in another state.

The author and proponents of this bill believe that out-of-state physicians are making inappropriate decisions regarding these utilization reviews in part because there is no regulatory agency holding them accountable.

This bill would ensure that any physician performing a utilization review in California would be regulated by the Medical Board (Board) by requiring all physicians performing these reviews to be license in this state.

FISCAL: None

POSITION: Recommendation: Support

April 18, 2008

ASSEMBLY BILL No. 2969

Introduced by Assembly Member Lieber
(Coauthors: Assembly Members Beall and Ruskin)

February 22, 2008

An act to amend Section 4610 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2969, as introduced, Lieber. Workers' compensation: medical treatment utilization reviews.

Existing law establishes a workers' compensation system to compensate an employee for injuries sustained in the course of his or her employment, and requires an employer to pay for all reasonable costs of medical services necessary to care for or relieve work-related injuries. Existing law requires every employer to establish a medical treatment utilization review process, in compliance with specified requirements, either directly or through its insurer or an entity with which the employer or insurer contracts for these services. Existing law provides that no person other than a licensed physician who is competent to evaluate the specific clinical issues involved in the medical treatment services, and where these services are within the scope of the physician's practice, requested by the physician may modify, delay, or deny requests for authorization of medical treatment for reasons of medical necessity to cure and relieve.

This bill would require that any licensed physician who is conducting such an evaluation be licensed in California.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4610 of the Labor Code is amended to read:

4610. (a) For purposes of this section, "utilization review" means utilization review or utilization management functions that prospectively, retrospectively, or concurrently review and approve, modify, delay, or deny, based in whole or in part on medical necessity to cure and relieve, treatment recommendations by physicians, as defined in Section 3209.3, prior to, retrospectively, or concurrent with the provision of medical treatment services pursuant to Section 4600.

(b) Every employer shall establish a utilization review process in compliance with this section, either directly or through its insurer or an entity with which an employer or insurer contracts for these services.

(c) Each utilization review process shall be governed by written policies and procedures. These policies and procedures shall ensure that decisions based on the medical necessity to cure and relieve of proposed medical treatment services are consistent with the schedule for medical treatment utilization adopted pursuant to Section 5307.27. Prior to adoption of the schedule, these policies and procedures shall be consistent with the recommended standards set forth in the American College of Occupational and Environmental Medicine Occupational Medical Practice Guidelines. These policies and procedures, and a description of the utilization process, shall be filed with the administrative director and shall be disclosed by the employer to employees, physicians, and the public upon request.

(d) If an employer, insurer, or other entity subject to this section requests medical information from a physician in order to determine whether to approve, modify, delay, or deny requests for authorization, the employer shall request only the information reasonably necessary to make the determination. The employer, insurer, or other entity shall employ or designate a medical director who holds an unrestricted license to practice medicine in this state issued pursuant to Section 2050 or Section 2450 of the Business and Professions Code. The medical director shall ensure that the process by which the employer or other entity reviews and approves, modifies, delays, or denies requests by physicians prior

to, retrospectively, or concurrent with the provision of medical treatment services, complies with the requirements of this section. Nothing in this section shall be construed as restricting the existing authority of the Medical Board of California.

(e) No person other than a ~~licensed~~ physician *licensed in California* who is competent to evaluate the specific clinical issues involved in the medical treatment services, and where these services are within the scope of the physician's practice, requested by the physician may modify, delay, or deny requests for authorization of medical treatment for reasons of medical necessity to cure and relieve.

(f) The criteria or guidelines used in the utilization review process to determine whether to approve, modify, delay, or deny medical treatment services shall be all of the following:

(1) Developed with involvement from actively practicing physicians.

(2) Consistent with the schedule for medical treatment utilization adopted pursuant to Section 5307.27. Prior to adoption of the schedule, these policies and procedures shall be consistent with the recommended standards set forth in the American College of Occupational and Environmental Medicine Occupational Medical Practice Guidelines.

(3) Evaluated at least annually, and updated if necessary.

(4) Disclosed to the physician and the employee, if used as the basis of a decision to modify, delay, or deny services in a specified case under review.

(5) Available to the public upon request. An employer shall only be required to disclose the criteria or guidelines for the specific procedures or conditions requested. An employer may charge members of the public reasonable copying and postage expenses related to disclosing criteria or guidelines pursuant to this paragraph. Criteria or guidelines may also be made available through electronic means. No charge shall be required for an employee whose physician's request for medical treatment services is under review.

(g) In determining whether to approve, modify, delay, or deny requests by physicians prior to, retrospectively, or concurrent with the provisions of medical treatment services to employees all of the following requirements must be met:

(1) Prospective or concurrent decisions shall be made in a timely fashion that is appropriate for the nature of the employee's condition, not to exceed five working days from the receipt of the information reasonably necessary to make the determination, but in no event more than 14 days from the date of the medical treatment recommendation by the physician. In cases where the review is retrospective, the decision shall be communicated to the individual who received services, or to the individual's designee, within 30 days of receipt of information that is reasonably necessary to make this determination.

(2) When the employee's condition is such that the employee faces an imminent and serious threat to his or her health, including, but not limited to, the potential loss of life, limb, or other major bodily function, or the normal timeframe for the decisionmaking process, as described in paragraph (1), would be detrimental to the employee's life or health or could jeopardize the employee's ability to regain maximum function, decisions to approve, modify, delay, or deny requests by physicians prior to, or concurrent with, the provision of medical treatment services to employees shall be made in a timely fashion that is appropriate for the nature of the employee's condition, but not to exceed 72 hours after the receipt of the information reasonably necessary to make the determination.

(3) (A) Decisions to approve, modify, delay, or deny requests by physicians for authorization prior to, or concurrent with, the provision of medical treatment services to employees shall be communicated to the requesting physician within 24 hours of the decision. Decisions resulting in modification, delay, or denial of all or part of the requested health care service shall be communicated to physicians initially by telephone or facsimile, and to the physician and employee in writing within 24 hours for concurrent review, or within two business days of the decision for prospective review, as prescribed by the administrative director. If the request is not approved in full, disputes shall be resolved in accordance with Section 4062. If a request to perform spinal surgery is denied, disputes shall be resolved in accordance with subdivision (b) of Section 4062.

(B) In the case of concurrent review, medical care shall not be discontinued until the employee's physician has been notified of the decision and a care plan has been agreed upon by the physician that is appropriate for the medical needs of the employee. Medical

care provided during a concurrent review shall be care that is medically necessary to cure and relieve, and an insurer or self-insured employer shall only be liable for those services determined medically necessary to cure and relieve. If the insurer or self-insured employer disputes whether or not one or more services offered concurrently with a utilization review were medically necessary to cure and relieve, the dispute shall be resolved pursuant to Section 4062, except in cases involving recommendations for the performance of spinal surgery, which shall be governed by the provisions of subdivision (b) of Section 4062. Any compromise between the parties that an insurer or self-insured employer believes may result in payment for services that were not medically necessary to cure and relieve shall be reported by the insurer or the self-insured employer to the licensing board of the provider or providers who received the payments, in a manner set forth by the respective board and in such a way as to minimize reporting costs both to the board and to the insurer or self-insured employer, for evaluation as to possible violations of the statutes governing appropriate professional practices. No fees shall be levied upon insurers or self-insured employers making reports required by this section.

(4) Communications regarding decisions to approve requests by physicians shall specify the specific medical treatment service approved. Responses regarding decisions to modify, delay, or deny medical treatment services requested by physicians shall include a clear and concise explanation of the reasons for the employer's decision, a description of the criteria or guidelines used, and the clinical reasons for the decisions regarding medical necessity.

(5) If the employer, insurer, or other entity cannot make a decision within the timeframes specified in paragraph (1) or (2) because the employer or other entity is not in receipt of all of the information reasonably necessary and requested, because the employer requires consultation by an expert reviewer, or because the employer has asked that an additional examination or test be performed upon the employee that is reasonable and consistent with good medical practice, the employer shall immediately notify the physician and the employee, in writing, that the employer cannot make a decision within the required timeframe, and specify the information requested but not received, the expert reviewer to be consulted, or the additional examinations or tests required. The

employer shall also notify the physician and employee of the anticipated date on which a decision may be rendered. Upon receipt of all information reasonably necessary and requested by the employer, the employer shall approve, modify, or deny the request for authorization within the timeframes specified in paragraph (1) or (2).

(h) Every employer, insurer, or other entity subject to this section shall maintain telephone access for physicians to request authorization for health care services.

(i) If the administrative director determines that the employer, insurer, or other entity subject to this section has failed to meet any of the timeframes in this section, or has failed to meet any other requirement of this section, the administrative director may assess, by order, administrative penalties for each failure. A proceeding for the issuance of an order assessing administrative penalties shall be subject to appropriate notice to, and an opportunity for a hearing with regard to, the person affected. The administrative penalties shall not be deemed to be an exclusive remedy for the administrative director. These penalties shall be deposited in the Workers' Compensation Administration Revolving Fund.

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